APPENDIX.

APPENDIX

TO THE

CONGRESSIONAL RECORD.

Election of Senators by the Direct Vote of the People.

SPEECH

OF

HON. RICHARD E. CONNELL,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. CONNELL said:

Mr. SPEAKER: It is only in the spirit of general gratification over the fact that this proposed amendment is to pass, after so many years of advocacy by the Democracy of the Republic and of opposition from the Republican Party, so long in power, that I rise to speak in this debate. There is not sufficient opposition to this proposed change in the Constitution to do more in this House to-day than awaken feelings of wonder as to what has become of the once powerful forces that so long dominated the other side of this Chamber. They speak to-day in trivial technicalities and, having heard the thunders of Democracy which echoed in the political skies last November, they dare not oppose seriously this great reform.

They tell us that the amendment should fail in its present form, because it would deprive Congress of its power to regulate "the time and place and manner" of electing United States Senators. This is the whole cause for which the once great party of boasted intellectual and constitutional resources stands in this debate. When, sir, did the Congress of the United States regulate the time and place for the election of United States Senators? What has happened that at this time, when our Union is more secure and patriotic than ever, to call for the enlargement of the Federal power, so that it may have more control over elections than it ever used before? The people of the States have from the beginning of the system been the judges as to who should vote for members of State legislatures, and these legislatures have elected the United States Senators. What has happened to lessen the capacity of the States to use the franchise in the future as in the past, and when did the States become a menace to the Congress through the possession of powers to elect members of assembly and State senators? Nothing of this nature has happened; but something else has happened. The people of the country have endured the strong arm of aristocratic power—a Senate seeming to represent wealth and privilege—as long as they intend to endure it; and while the wave of democracy, which is now dashing its fury against the House of Lords of England, may break in vain for years to come, there is an ocean of democracy here, which has already swept from the path of the Republic this menace to its true mission.

The gentleman from Illinois [Mr. MANN] predicts that the time will come when the progressiveness of which this reform is a part will make the smaller States, like Rhode Island, regret this amendment, because the larger States will crush out the smaller ones by virtue of their superior populations. This seems to me to have even less than the merit of a technicality; it has every appearance of a fancy born of a panic over the loss of accustomed power. Sir, we have had senatorial deadlocks and senatorial situations in my own State of New York which fanned the flame of democracy in the hearts of the voters, as they saw how popular election of Senators would have prevented the troubles; but of all the States in the Union it seems to me that Illinois should welcome this reform for the sake of the names that live in her history, for the sake of her growing power among the great States of the Nation, as well as for the sake of her fair name among the States of the Republic. When the gentleman from Missouri [Mr. RUCKER] hurled back at the gentleman from Illinois [Mr. MANN] the shaft, "Illinois has made more history during the last six months than the Southern Confederacy made in four years," he may have staggered a fact, but he illumined a condition and emphasized a situation. His observation would have been no further from the literal truth than it is had he added not only "more" history but "worse" history. The dangers which beset this Government are not in open rebellion, for that has come and failed and vanished forever; but rather in the methods which corrupt wealth and arrogant political power insidiously use in their warfare against democracy.

If there be one point in this debate which more than another promises to attract the attention of the country, apart from the reform which is the point of it all, it is that made by the gentleman from Alabama [Mr. HOBSON], who declared that one of the main benefits to the Republic which will flow from popular elections for United States Senators will be a wider education of the masses in the use of the ballot and in the exercise of political choice and suffrage. Yes, Mr. Speaker, democracy begets democracy, and the remedy for the apparent failures of democracy is more democracy. If this be not true, then there is room for at least lack of confidence in the perpetuity of our country. To argue that the people of a State could, with safety and loyalty, elect their legislators for a century past, but may not be trusted to elect United States Senators also for the next century, is to limit democracy where its self-preservation demands extension of place and application.

But, Mr. Speaker, the opponents of this proposed amendment, a mere handful in this House, do not, in my judgment, hope to better the amendment, but rather to manipulate its defeat altogether. The gentlemen say that Congress ought not to part with its powers to name the time and place of election of Senators, which power it now has over the election of Congressmen. What do they say will happen in the States in case this is done? Where is the danger? In the South, you say? On the political hustings and in the political press we have long heard and read of election laws in the South being bad; Illinois herself has no doubt joined lustily in that cry. But has not the Supreme Court of the United States sustained every State law at which the gentlemen making this opposition, this attempt to defeat this amendment, must be aiming?

But the gentleman from Illinois [Mr. MANN] finds that the proposed amendment as presented by the gentleman from Missouri [Mr. RUCKER] is faulty in grammar and crude in rhetoric, and upon this point the remnant of a party once mighty in mighty things takes position, forms its minority line, and boldly dashes itself against the majestic majority which resulted from a great political revolution recently wrought by the American people. It matters not that the grammar referred to is in the Constitution of the United States, and which in all probability crept into that instrument while the great men who wrote it were thinking of the coming generations that were to find freedom and happiness in democracy under its benign provisions.

And has the Republican Party come at last to this? Was its crowning work to be seen in this session of Congress and found to be a simmering quibble over a proposed amendment to the Constitution demanded by the votes of freemen all over the freest republic in all history? I am tempted, Mr. Speaker, to quote that familiar comment, "But yesterday the word of

Cæsar might have stood against the world," but I leave the poetical part of the debate to the distinguished gentleman from Missouri [Mr. RUCKER], who has modestly claimed that if he does not know all about grammar he does know something about the application of poetry.

The days of subtlety in legislation have had a shock, Mr. Speaker, and are passing fast. The days of defeating large reforms by pleading picayune technicalities are over. The day of the political party that pretends political virtue and practices debauchery of elections passed some time ago. This impressive majority, which will pass this reform, has not only its great work to do in passing other and still larger reforms, but its task is also to see to it that in this or in subsequent Congresses Democracy shall not be thwarted in the day of its opportunity, nor throttled at its own fireside, by those who pretend to be its friends. I shall vote for the proposed amendment as offered by the gentleman from Missouri.

Election of Senators.

SPEECH
OF
HON. JOHN J. KINDRED,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. KINDRED said:

Mr. SPEAKER: In Thomas Jefferson's time and for years after the adoption of Article I, section 3, of the Constitution of the United States, providing for the election of United States Senators by the legislatures of the respective States of the Union, there was no abuse by the State legislatures of this great constitutional power. But for many years past the manner in which some of the State legislatures have abused this constitutional right has led to well-founded charges that their selections of certain men to the high and dignified office of United States Senator were not only a farce and a gross injustice to the people, but that such selections were brought about by fraud, bribery, and widespread corruption. There have been only too many examples in late years of such disgraceful methods, which are now so clearly understood by the people of this country that they have, through the platform of the National Democratic Party, through various State Democratic platforms, and through other means, plainly demanded that such high-handed abuses by the plutocratic and money powers should be put down by giving to the people themselves the right to directly select by popular vote their United States Senators. This has been the Democratic doctrine and urgent demand for years past, in justice to the whole people and for the sake of civic decency and fundamental right in our political life.

Mr. Speaker, we have, in contrast to this strong platform in the National and State Democratic Party, the absence of any such demand in the National Republican platform, and we have, too, in contrast to this Democratic demand, the views expressed to-day by the gentleman from Illinois [Mr. MANN], to the effect that he hardly believed that the time had yet come when it would be safe or wise to take away from the State legislatures the constitutional right which so many of them have so conspicuously abused, one of the most conspicuous examples of such abuse having occurred very recently in the gentleman's own State. The views of the gentleman from Illinois [Mr. MANN] thus expressed here to-day are of peculiar significance, because he is such a distinguished and able representative of his party in the Nation.

It has been made plain that many of the clearest thinkers who adopted the Constitution of the United States knew at the time of its adoption that this magnificent Constitution, and no other human document that could be formulated, could, under all circumstances and under such rapidly developing and changing conditions as it seemed to them would take place in this country, be expected in the future to meet all the needs and changing requirements of our national life and its marvelous expansions. And therefore to meet these changes and to fulfill the will of the people the Democratic Party has for years demanded that the Constitution be amended so as to place directly with the people the election of United States Senators, this being in every way a very logical and urgent measure, to which it would seem that every congressional representative of the true interests of the people would readily assent if they would keep apace with the progress of the times and would remain faithful to the best ultimate interests of this glorious Republic.

Not only as a matter of patriotism and to secure higher ideals of government should we support the resolution introduced by the gentleman from Missouri [Mr. RUCKER], but we should also earnestly support it from the standpoint of honest business men, realizing that the results of choosing United States Senators by the State legislatures, as at present, bring about wanton waste of the people's money and time in endless legislative deadlocks and the consequent lack of representation of such States in the United States Senate in matters of grave concern to the taxpayers and citizens of the country. Mr. Speaker, there is perhaps in no other department of our vast National Government a source of so much scandal and rottenness, giving rise to so many charges and harsh criticisms of our Republic, whose fair name is assailed on this score particularly by every advanced nation of the world.

As a further argument in favor of passing this measure and thus placing those in power nearer to the source of power—the people—and as showing the benefits of such a broad Democratic principle as this, we have in very recent times the significant action of Great Britain in abolishing the veto power of the House of Lords, and well might "history repeat itself" in this regard in our own country and in our own day if an autocratic Senate should continue on the part of some Senators to disregard the wishes in this particular of at least 90 per cent of the voters of the United States.

The people of the country and the Democratic Party are to be most heartily congratulated that this day we are here in the House of Representatives to pass this measure and to realize at last the fruition of our hopes in this all-important principle, which is in line with all of the other galaxy of great principles which the majority party in this House have placed upon their program for passage during this extraordinary session of the Sixty-second Congress. We shall then to-day settle forever, so far as the Democrats of this branch of Congress are concerned, the question of whether United States Senators shall in the future be such types of men as the people want and shall choose by their direct vote or whether there shall be continued in the United States Senate such types as those placed there by the methods referred to, and who are not there in the interests of the people, but entirely in the interests of themselves and the combination of "business and politics" which such men always faithfully represent in season and out of season.

Mr. Speaker, I, with the overwhelming majority of Democrats on this side of the House, shall gladly vote for this resolution as originally introduced.

Election of United States Senators by the Direct Vote of the People.

SPEECH
OF
HON. GEORGE EDMUND FOSS,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. FOSS said:

Mr. SPEAKER: I am in favor of this measure providing for the election of United States Senators by the people. I have always been in favor of this principle ever since I have been a Member of Congress, and I have voted for it whenever I have had the opportunity, which has been, to my recollection, at least four times during my congressional career.

In the first place, I heartily support this measure because I believe that it is the sentiment of the people whom I have the honor to represent.

In the second place, I support it because the people of the State of Illinois, of which I am a resident, have, in a referendum vote by an overwhelming majority, indorsed the principle of the election of United States Senators by the people.

In the third place, I am for it because I believe the people of the whole country to-day are in favor of this principle, and, if I mistake not, nearly two-thirds of the State legislatures have expressed themselves in resolutions of one character and an-

other in favor of the general proposition of the election of United States Senators by the people.

In fact, the sentiment is overwhelmingly in favor of it; the people want it, and what the people want they are entitled to have, and as their representatives it is our duty to see that they are not disappointed.

Again, I am for this principle of the election of United States Senators by the people because I believe that it is the true principle, and it is the principle which will make Senators responsive to the demands and wishes of the people.

If they secure their election by direct vote of the people, they will feel much more responsive to popular sentiment than if they are elected by State legislatures, as they are now. There is a widespread feeling throughout the country, which I greatly regret, that our United States Senators are, in some measure, subservient to trusts and corporations and not to the people. There is nothing that will obliterate this idea more than the direct election of Senators by the people, and thus only through direct primaries and direct, popular elections will the Senators be made to feel that close and true alliance to the people which ought to exist between them.

Again, I am for this principle of the direct election of United States Senators by the people, because, in my judgment, it will do away with the corruption and fraud and bribery which has not infrequently characterized State legislatures in their election of Senators. In fact, the most disgraceful chapters of all our political history have been in cases of election of United States Senators.

The great mass of the people are honest, but there are a few in every community who are dishonest. It is impossible to corrupt the great mass of the people, but it is possible to corrupt a few. The larger the electorate which elects the United States Senator the less chance will there be for corruption or fraud.

One of the most significant and promising signs of the times is the great movement on the part of the people in the insistence on their part of the control of the machinery for nominating and electing their representatives. In recent years this machinery has been too often in the hands of political bosses and away from the people, but the people, realizing their condition, have awakened from their slumber and are now beginning to assume their rights, and not until this is done will we ever fully realize that we are indeed "a government of the people, for the people, and by the people."

Election of United States Senators by the Direct Vote of the People.

SPEECH

OF

HON. FRANK BUCHANAN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. BUCHANAN said:

Mr. SPEAKER: The masses are now clamoring for the popular election of United States Senators. If this is a government of the masses we must listen patiently to the expression of their wishes. It is now ample time to face this important question with frankness and candor. We have now had 136 years of democratic government in these United States. Within that time we have grown from 13 Colonies to a federation of 46 States. During this period the center of population has been moving westward until now it is in the neighborhood of the Mississippi Valley.

Since 1770 we have grown from a population of 1,850,770 to a population of 91,972,266.

The activity of our people has changed from that of a purely agricultural class to that in which manufactures is predominant. The material resources have been exploited until now billions of dollars—beyond the imagination of man—are invested in the industries of the country. The lawful and just administration of these industries involves the welfare of our whole people. If this administration is lawfully and justly conducted, prosperity results; otherwise great poverty prevails.

The manipulations of the industrial forces of our country are in the hands of a comparatively few people; that is to say, each branch of the railroads and mines, the mills and the workshops are centered in the hands of a group of men who, acting with the insurance companies and the banks, in a large measure manipulate and control the finances of our land; and, inasmuch as the money and credits of the country are the force that make or unmake industrial life, the control of them by any limited number of people creates a disastrous check to the working out of a plan of government based upon the proposition that there shall be equal rights for all and special privileges for none.

The manipulation of these industries upon which all toilers depend for bread is made possible only by special privileges secured from the lawmaking bodies of the land. For the legislative department is the seat of all law; and this department of our Government is responsive to the demand of the many people against the few, or the demands of the few people against the many, only in so far as this department is controlled by the common and average man and answerable to him for the source of its power.

Under the scheme of government as it was provided for by the Constitution the Senate of the United States automatically became an institution far removed from the people whom it theoretically is supposed to represent.

By the terms of the present constitutional requirement the citizen is precluded from exercising any direct voice in determining the question of who shall be the Senator from his State. This power is placed directly in the legislature in each of the several States; and because the legislature and not the people elect the Senators of that State, the Senators take their orders not from the people, but from the powers that control the legislative body.

It is no answer to say that the presumption is that the legislatures of the country are honest and that the legislative assemblies are composed of men who represent the average of citizenship, and that these representatives who elect the Senators are indeed but the voice of the people who elect the representatives.

The argument is fallacious, and in the face of the repeated illustrations that this country has been afforded one may be pardoned for doubting the candor of its proponents. The facts in nearly every case are that the members of the legislature are elected upon issues other than "who shall or shall not be the Senator from the particular State." Of late they have been generally elected upon the question of local option or other propositions equally distant from the main question.

A member of the legislature who is competent by his views with reference to local issues may not be qualified with respect to questions of Federal import. Most frequently the members of the legislatures are elected during presidential or congressional campaigns, when the selection of the member of the legislature is merely an incident. Seldom, if ever, is it known in advance who is or who is not to be the candidate for United States Senator from the particular State.

The Senator is generally selected by political caucus, frequently composed of members who are "political bosses," and to whom the members of the legislature, by common belief, owe their power.

Frequently, too, when the question of "who shall be United States Senator" is too prominently to the fore in political elections, the predominant party splits and deadlocks ensue, as a result of which, for a time at least, the State may be without senatorial representation; and these deadlocks are broken only by the reputed expenditure of sums of money largely in excess of the emoluments of the office, and therefore in his behalf, by special interests whose obvious hope is to profit from his election. The result of all of these conditions has been to place the matter of "who shall be the representative of the State in the Senate of the United States," not in the forum of public discussion where free minds and unpurchasable men may vote according to their ideas of the special fitness of the candidate, but to put, as it were, the office upon the auction block, there to be bought and sold by the interests that pay the price.

It does not matter that the fathers were wise in framing our form of government. As to most things they were. Indeed, they were as to all things concerning a form of goverument responsive to the will and representing the ideals of the people within the Thirteen Colonies.

At that time Government lands were not to be given away. Mines and water power and forest lands could not be diverted from the public domain in such vast quantities as to enrich the forestaller at the expense of the toilers of our country.

At that time subsidies were not paid to shipowners, and railroad companies were not given transcontinental grants carrying an acreage great as the empires of the Old World.

At that time there was no manipulation of Government bonds by favorite bankers, nor were there adjustments of tariffs which made great trusts prosperous and millions paupers.

The framers of the Government had no means of foreseeing that our great insurance and railroad companies would col-

lectively receive and expend larger sums of money than the Treasury of the United States; and so it was not for the framers of the Constitution to foresee that the lawmaking power of the Government would be reposed in the Senate of the United States, elected by influences tremendous, sinister, and inimical to the public weal. Could it have been foreseen the framers of the Government never would have adopted so great a solecism in free government.

The application for special protection and privilege by the great institutions of capital to the Senate of the United States for legislative privilege has made of the Senate of the United States the scandal among nations of the world. Recent and impending investigations concerning the senatorial situation in the State of Illinois disclose a condition that has been frequently charged and generally understood to have had its counterpart in almost every State in the Union. The debauchery of the State legislatures has been so far charged and believed that the standard of civic morality has been lowered to the point where great interest is aroused only in sensational instances. If it were for no greater reason than merely that of lifting one great branch of our Government out of mire of notoriety and shame arising from frequent and pointed accusations and indictment, the removal of the election of the Senators from the legislature to a direct expression of the voters would perform an incalculable public good.

As it now stands, the Senate of the United States has given to the public welfare no great man of genius, unless it has been those who have rebelled against the plutocratic tendency of the hour. On the other hand, it has developed a large number of men out of sympathy with free institutions, far away from the voice of the people, whose sole and only interest has been to pile up the special privileges of the interests to secure their election.

If confidence in the lawmaking body of the land is to be restored, if the body is to be responsive to the wishes of the people, if it is to act for the general good and not for the crafty few; in short, if a free government is to survive, it must be through such a change of the Constitution; and in voting for this amendment, that will permit the election of the greatest lawmaking body in the world by direct expression of the people, I am expressing my desire and the wishes of the masses that I am here to represent.

Election of United States Senators by the Direct Vote of the People.

SPEECH

OF

HON. WILLIAM B. FRANCIS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. FRANCIS said:

Mr. SPEAKER: The Senate of the United States as originally constituted was to be the most dignified legislative body of men on the continent, and in fact with no superior in the world; and it is not intended by this resolution to break down that great ideal, but to perpetuate it, and remove from that body the possibility of hereafter being besmirched by the stigma of the accusation of corrupt practices in the selection of its Members, and take away the odium which public opinion is fast heaping upon it, and that its membership may hereafter be relieved of any suspicion that they or any of them are the creatures of any other power or authority than the people.

I indorse every word of this resolution as reported from the committee. You may hamper it and load it down with amendments, in order to obscure it or prevent its provisions from becoming operative; but one thing is certain, and that is, that the time has come when the people will be fooled no longer. The organic law of the land has been perverted, the rights of the common people have been stifled, and legislation in their interest has too often been smothered in the Senate. We must keep faith with the people in those things which we promised them; and be he either Senator or Representative who fails to do this will be relegated to private life by reason of failure to keep the pledge. It is a notorious fact that of all the thousands of people comprising the army of Federal officers, attachés, and employees in each and all of the departments of our Government, there is but one branch of that vast number which is filled by popular election of the people, and that is Members of the House. The President and Vice President are elected by electors chosen by the people, and the office of Senator, under consideration in this resolution, is chosen by the legislatures of the several States.

The appointment of this vast army of Federal employees is intrenched behind civil-service rules, and the appointees have neither the right, liberty, nor freedom of speech, unless they exercise these rights according to the appointing power, and in this way the party in power is perpetuated. There seems a studied effort by those exercising authority to fortify themselves against the will of the people, and, in other words, the great fear is often expressed by them that the people can not be intrusted to govern themselves. On this theory the British opposed our independence; on this theory a free Republic has become owner of our colonies in the Philippines. Every plan of government which takes away from the people the right to elect their officers by their vote and the right to fix the tenure of the offices under which we live is to that extent "tyranny." This measure proposes to give back to the people in each State the right to elect their Senators by ballot, but gentlemen on the other side become greatly agitated, fearing that to intrust the elector might result in serious consequences.

Some 27 States of the Union have attempted to throw off the shackles of this Federal plan so obnoxious to the country, and have already taken steps to nominate, and in some manner elect, Senators by direct vote.

Mr. Speaker, it has been suggested that this bill has been presented for passage too suddenly, and that sufficient time has not been given to consider it. Does the gentleman not know that this bill, substantially in its present form, passed this House about two months ago in the Sixty-first Congress; and that every college, every country school and grange have discussed this proposition for the past 10 years, and if they do not now know what is proposed by this resolution, then when do they ever expect to know.

In discussing this measure we should take into consideration the old law, the mischief sought to be avoided, and the remedy proposed by its amendment.

At the time of the adoption of the Constitution the Federalists advocated a strong central form of government, while Thomas Jefferson, "The Sage of Monticello," advocated a form of government which would give the greatest amount of freedom, liberties, and privileges consistent with representative government, and it is highly fitting that on this, the anniversary of the birthday of that great champion of the rights of the common people, we should celebrate the birth of Thomas Jefferson, and by adopting this measure restore to the people the right to say by their votes who shall be elected to represent them in the United States Senate and restore to the Constitution the true Jeffersonian principle of which it was once robbed by the advocates of centralization.

Our country has gotten into this shape. The common people represent 93 per cent of the entire population of 92,000,000 people. These are made up of laborers, farmers, artisans, and so forth, who own but a pittance of the wealth of the country, while the other 7 per cent of our population control the vast wealth of the Nation. We hate to admit it, but the great breach between the idle rich and industrial poor has become alarming, and the common people have become suspicious that our upper House, known as the United States Senate, has become a house of lords in fact but not in name; that its sympathies are with the class that hold the purse strings and moneybags of the wealth of the Nation, and while it is no crime to be wealthy, nor to be a wealthy Senator, yet the idea prevalent is that the great assassins of the people's liberties, known as trusts and monoplies, have taken refuge behind the United States Senate, and that the aggregated wealth and special privileged class have captured one of the wings of legislative government, and are a hindrance and obstruction to almost all legislation excepting that which is desired and indicated by the "interests."

More to be feared than the hated and despised assassin is the system that may stifle and ignore our inalienable rights and put the selection of that great body of legislative government on the auction block.

The manner of selecting United States Senators has become a stench in the nostrils of the American people. Our forefathers composed these two great bodies, the House and Senate, and attempted to make of them a team which should pull together, but when the latter refuses to pull with the people and will only work in the harness of the interests, it certainly is time to refer the election of that branch of legislation back to the direct vote of the people of the several States from whom that body primarily derived its authority.

The agriculturists, miners, and factory workmen can not maintain lobbyists at our different State legislatures to see that Senators are selected who are in sympathy with their occupations and employments, for the reason that they are too busy and, we believe, too honest to do so. The long hours of laborious work and toil of our laboring masses to get the means with which to sustain themselves and families and to meet the high cost of living keep them at their homes and work. But a lobby is maintained only too often, and by whom? Those representing the wealth, the trusts, and monopolies of our country, and the gravest suspicion is entertained that selections are made that way and influenced thereby.

Mr. Speaker, the senatorial session closing the Sixty-first Congress was largely taken up by considering if a part of its membership was legally elected, and whether it was a body qualified to do business, and when it finally determined that fact in the affirmative, it then had but three or four days left to consider and pass upon the aggregation of accumulated bills of legislation most important to the country, and upon its again convening in extra session they yet have doubts of the bona fides of their own body, and renew investigation to find out whether they really are a body legally and morally competent to do any business.

The dire conclusions which the people have drawn are not without reason, for when a proposition or bill is passed up to the Senate where labor is vitally interested, it is too often smothered or ridden down with amendments until at last it has lost its identity or has been shaped so as to become a vicious weapon turned toward the sons of toil who asked relief.

Or when the old soldier has made his stand for relief at the hands of Congress and passed his Sulloway bill up for final action, with a few platitudinous speeches of sympathy for their cause it is smothered, killed, and buried, and with it the soldier's hope.

The maxim of Jefferson, "Equal justice for all and special privileges for none," has been changed to "Unequal justice for the masses and special privileges for the classes." It is very apparent that the minority are not in accord with this or any other amendment to the Constitution which would refer back to the people of the several States the right to elect their Senators by direct vote, and they wish to prevent the passage of this bill by weighting it down and obscuring it with amendments. The one which is most seriously urged is to strike out a part of its provisions, to wit, "The times, places, and manner of holding elections for Senators shall be prescribed in each State by the legislature thereof." By striking out this they mean to leave with Congress the power to prescribe the manner of conducting these elections; that the Federal Government shall stand guard over the several States in this new undertaking, fearing that some of the States, more particularly the Southern States, may wish, under the word "manner," to control or limit the elector who shall cast the ballot. It is a piece of effrontery to say that each State shall not fix the time, manner, and place of holding its elections. All governments derive "their just powers from the consent of the governed," and especially is this true in a Republic like ours, where "all power is inherent in the people."

The very first section of the United States Constitution says, "All legislative powers herein granted shall be vested in a * * * Senate and House of Representatives"—power granted from whom but the people, and to whom but those composing the Senate and House.

How careful those old sages were who wrote the Constitution to retain to the people all rights which are not expressly granted. They were simply drawing these powers from the fountain, the people, and distributing them through legislative channels, being exceedingly careful as to what powers they conferred upon their agents, little expecting that their servants in the person of Senators would ever attempt to exercise over them the authority of a master. Take the following reservations in the Constitution:

ART. IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

And again:

ART. X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

These articles of the Constitution are self-explanatory, and show conclusively that the remedy for abuse of official power is to be solved by the people themselves and by popular vote.

Some time ago the very pertinent question was asked by Senator OWEN, of Oklahoma, "If the people rule, why do not they get what they want"? We have every reason to believe that if this amendment is duly passed and ratified by the several States the people will again rule and get what they want.

Election of Senators.

SPEECH
OF
HON. THOMAS L. REILLY,
OF CONNECTICUT,
IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. REILLY said:

Mr. SPEAKER: One of the great Democratic issues in recent campaigns was the proposition now before the House—the election of United States Senators by a direct instead of a legislative vote. Its advocacy was one of the reasons why the Democratic Party swept out of power in this branch of the National Government the Republican Party in the elections of 1910. The attitude of the Republican Party on this measure was shown in the last national convention, when by an overwhelming vote the plank in favor of direct election of Senators was defeated. Aside from the great issue of the high cost of living, increased under the Payne-Aldrich bamboozle, it was the most powerful weapon in the hands of the Democracy in winning its splendid victory that has restored this branch of the National Legislature to the common people. That the Republican Party has learned, or is fast learning, the lesson of the 1910 election is proven by the passage of this bill or a similar one by the last House, and the proof will be again shown by the passage of this bill by this House.

Parliamentary porcupines, bristling with irritating points, may briefly interfere with its passage, but can not prevent it from becoming a law, for the States will largely ratify the constitutional change necessary to put this great reform in operation. My own State furnishes the clearest proof of the necessity of the changes. The system of representation under which Connecticut is suffering makes it almost impossible to have the will of the people as to its United States Senators fairly expressed. With us white birches, and not men, count in the election of our house of representatives; acres, not voters, decide who shall make our laws in the alleged popular branch of our government. Poplar, not popular, would be a better expression of what that branch really is. In our State, as is well known to many, we have representation in the house according to towns and not population. All the older towns, no matter how small, have two representatives in the legislature; the largest towns have no more. New Haven, with 135,000 people; Bridgeport, with 102,000; Hartford, with 90,000; Waterbury, with 75,000; New Britain, with 43,000; and Meriden, my own city, with 32,000, have each only two members of the house, while towns with less than 100 voters and scarcely more than that number of population, also have two representatives each. These small towns are in the great majority and, under the present system, absolutely dominate our legislature. They decide who shall be elected.

The fact that we have had an Orville Platt and a Joseph R. Hawley for Senators does not furnish a justification of this most unfair system. It is a system that offers to the unscrupulous man wih money bags the easiest and cheapest way to break into the United States Senate. It is a disfranchisement of the people absolute and complete so far as the lower branch of our legislature is concerned. Our Republican friends need not go below any imaginary line to seek for disfranchised voters, black or white. They can go above that line, into Connecticut, and find them by the thousand, black and white.

If there were not broad, general reasons and unanswerable arguments that even Republicans now recognize and admit for the election of United States Senators by a direct vote of the people, my own State furnishes the proof of the need of the change and warrants my earnest advocacy of the Rucker bill. With us an overwhelming majority of the voters of the State may favor the election of a man to the United States Senate, but the majority of the small towns can prevent the will of the majority of the voters from being effective. Pass this bill, I entreat you, and liberate the voters of the Commonwealth of Connecticut from the bondage of a system that cries to the god of political justice for redress. Pass this bill and fulfill one of the pledges of our platform. Pass this bill and prove to the people that we meant what we said in this regard and make it the precursor of redeemed pledges to a people who placed us in power in the firm belief and with an abiding faith that their confidence would not be misplaced nor betrayed.

Election of Senators.

SPEECH

OF

HON. CHARLES N. PRAY,

OF MONTANA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. PRAY said:

Mr. SPEAKER: I desire to submit a brief statement of my position relative to the election of United States Senators by direct vote. Others have already dwelt at great length upon the legal aspects of this proposition and upon its practical features as well, amplifying by appropriate illustrations the benefits that are likely to follow the amendment to the Constitution proposed by this resolution. I think it has been very clearly demonstrated that the ultimate effect of such an amendment will be to strengthen the confidence of the people in the political institutions of our country and increase their respect for public officials to whom they intrust temporary care and control of these institutions. No one can deny that these things are exceedingly desirable, and, in fact, as I believe, indispensable to the perpetuity of this Government. So that if we would improve the health and increase the strength of our political system, no more important step in that direction could be taken at this time than to bring the higher legislative body into closer contact with the source of all power vested in the Government—that is to say, into more intimate relationship with the people everywhere throughout the land.

I indulge the hope and the expectation that this amendment will be made and in the immediate future; that the voters will be accorded the right to deal directly with senatorial candidates, and that the present roundabout way through State legislatures will be permanently discontinued. It is my candid belief that if this change should be made legislative efficiency in our State bodies would be increased 50 per cent, and it might not be foreign to this discussion to intimate that a similar advantage would in the course of time be noted in the higher Federal body. It would be a benefit to both legislative bodies; in fact, all legislative bodies, both State and national. But, gentlemen here of great learning and wide experience have declared that what we now propose is little less than an unwarranted innovation. They tell us that the people should not be intrusted with this grave responsibility. In that connection I am reminded of a speech made by Governor Hughes, of New York, in which he said:

> The only thing you can depend upon in this country is the judgment of the people after full discussion. I do not want to see the party in charge of self-appointed saviors.

Mr. Speaker, I am in favor of such an amendment to the Constitution as will hereafter dispense with the functions now and heretofore exercised by State legislatures in senatorial elections. But I fully realize that no particular good would result from a protracted discussion at this time of the history of this movement or from a recital of the many excellent reasons that may be assigned in favor of this proposed change. We shall find in recent political history conspicuous instances of failure of the method of electing Senators adopted by the framers of the Constitution. These men, although learned in the science of government and possessed of almost infinite skill and wisdom, could not possibly have foreseen the sinister influences that in the course of time would surround the halls of legislation in some of the States and seriously interfere with the lawful and orderly procedure intended by the authors of the Constitution.

This is by no means the first appearance of this proposition in the Congress of the United States. It has received attention for nearly a century, and has several times passed this body only to find a permanent resting place elsewhere. One of the members of the Constitutional Convention, who took a prominent part in its deliberations, strongly urged the adoption of the change here proposed. I believe that Hamilton favored a similar proposition, or perhaps the same one, but Judge Wilson, of Pennsylvania, is the delegate to whom I refer. It is said that, being a gentleman of great modesty, and that by reason of some oversight on the part of his contemporaries, he failed to receive the credit his judgment and wisdom and influence in the convention deserved. However, be it said, to the credit of political historians and investigators, posterity has in a measure rectified the error. Had the proposal of Wilson been accepted by the convention, it is reasonable to presume that many unfortunate political incidents growing out of the abuse of the old system would not have occurred.

I realize that I have made use of an exceedingly mild form of expression, for it is a matter of common knowledge that some of these incidents connected with senatorial elections have been repeatedly denounced as criminal transactions. However, I am not one of those who believe that representative government is a failure. We are steadily gaining ground. Political conditions to-day are far better than they were 20 or 10 years ago. Men in public life to-day are coming to feel more and more a sense of personal responsibility to the voter. The people are taking a greater interest in political affairs, and have a better understanding of political and industrial conditions, and know how to improve them. I hope the resolution will pass.

Reciprocity with Canada.

SPEECH

OF

HON. MICHAEL DONOHOE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 20, 1911,

On the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes.

Mr. DONOHOE said:

Mr. SPEAKER: In the brief time allotted me, I am obliged to condense my remarks on the subject in debate, and for this, indeed, the House has reason to be thankful. Prior to my election Philadelphia had not sent to Congress a single Democratic Member in 14 years. My district, the fifth, was not represented by a Democrat for almost 40 years. Four years ago the total vote in opposition to the Republican candidate in that district was less than 5,000, the Republican majority in that year being almost 25,000. Last November the people overturned that enormous Republican majority of 25,000, and I had the honor of being elected with a margin of 1,200 votes. [Applause.]

Mine is one of the largest and most varied of the great manufacturing districts of Pennsylvania, and if Pennsylvania can be said to be the temple of protective tariff then the fifth district was its innermost shrine. And yet, at the last election the people of that district defeated the candidates of a powerful political machine and for the first time in years sent their own representatives to the State and national legislatures.

In that campaign there were some minor local issues, which have no place here; but the chief issue was the high cost of living.

Some weeks ago the Philadelphia papers reported a distinguished gentleman, a Member of this House, as having uttered a sad wail at the result of the election in my district, and stating that the action of the people seemed to him almost sardonic, in view of the great prosperity that they were enjoying under the Payne-Aldrich tariff, as evidenced on every side by the enlargement of old mills and the erection of new ones. In all kindness, I will say to the gentleman who made that speech that he is evidently uninformed as to conditions that have prevailed in my district during the past two years. I have been in close touch with mill owners and mill workers there, and I know that industrial conditions have been most unsatisfactory for quite some time. The mills have not been operated on anything like full time, and this, after all, is the real test of prosperity. I do not know whether old mills have been enlarged or new ones built, but I do know that the best of the old ones have not been making full time and that the masses of people have not been satisfied.

I favor this reciprocity measure because it will extend the area of our free-trade relations on an equal or nearly equal basis. If the standards of wages and living the world over were equal to our standards, then free trade with all the world would be desirable. The Canadian standards are admittedly very close to ours, and in removing the commercial barriers between us and the Canadians we will not be facing the unfair competition of a cheap-labor country.

I am hopeful that we shall find in Canada a great market for our manufactured products. This will mean fuller time in our factories, mills, and mines, and, hence, increased income and purchasing capacity of our people. And with this increased purchasing power in the people our own farmers are sure to reap their full share of the increased prosperity. As the rep-

resentative of a great industrial center, I should much prefer an increase of income that would enable us to purchase the necessities of life at fair prices to a lowering of farmers' prices to meet our lessened income. And I am strong in the belief that there is enough wise progressiveness on both sides of this Chamber to cope with the serious problems of trusts, monopolies, and cold storage, the poisonous excrescences on our economic system, and, to my mind, the real causes of the high cost of living.

Reciprocity will relieve the patient, but it will require a radical operation to effect a permanent cure. [Applause.]

Election of United States Senators by the Direct Vote of the People.

SPEECH

OF

HON. CLEMENT C. DICKINSON,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 13, 1911,

On the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the United States.

Mr. DICKINSON said:

Mr. SPEAKER: This proposed amendment for election of United States Senators by direct vote of the people is in response to a public sentiment aroused by reason of the election of the United States Senators by State legislatures by undue, and at times corrupt, influences of great corporate and selfish interests desiring either special Federal legislation in their behalf or to defeat legislation seeking to control great corporate interests.

Suggestion is ingeniously made that by the adoption of this proposed constitutional amendment State sovereignty may be endangered and representative government is liable to be destroyed. That such suggestion should come from a member of that party that alone would lessen the power of sovereign States is at least significant. The danger does not rest in permitting the people of each State to elect Senators by direct vote. The danger rests not in trusting the people of the States, but the great danger to the States is the centralization of too much power at Washington, to the destruction of the rights of the States and the people thereof. Great selfish corporate interests desiring to avoid the laws that safeguard the rights of the people are anxious to defeat the will of the people of each State in the election of Senators and would so centralize this Government, even to the destruction of the States, rather than lose their power to control the destiny of this Republic, and they would perpetuate their power over the laws of the land by the corrupt election of their own agents to make the law in their interests rather than in the interests of the people of the States and of the Nation.

The struggle now is to preserve the States in their strength, so that this Republic, composed of indestructible States, may be preserved in its original conception, may live, and that human liberty may be preserved for the people on earth. The election of United States Senators by the corrupt influences of special interests desiring to place their agents in the United States Senate the people of this country are determined to put an end to, and the safety of the Republic rests in the intelligent sovereignty of the people. The interference of selfish interests in the election of the representatives of the State in the upper House of Congress has forced the issue and aroused the people, to the end that this Republic may be preserved for the people, controlled by the people and in the interest of the people.

The contest is in behalf of the people seeking to get control of the law-making body, to the end that laws in the interest of the people may be enacted, and to save the country from the corrupting influence of special interests that would prevent the enactment of just laws.

The voice of the people has been heard in the land and those who have thwarted the will of the people in the interests of privilege and special interests no longer stand in bold defiance, able to longer defeat the people in their effort to get again in control of the Government constructed by the fathers in their interests. It is pleasing to see how those high in office are yielding to the influence of public sentiment to the end that a greater revolution may not come. The time was when the people did not distrust its Representatives and agents—believing that they would faithfully record the will of those they sought to represent. But the accumulation of great wealth in the hands of a few; the successful efforts to have laws enacted for the benefit of special interests; the ability to place in the halls of legislation attorneys for those interests, and to retain them there regardless of the will of the majority of the people of a State, has emboldened these interests to use at times undue influences and corrupt means to secure from legislative bodies the election of their own agents, rather than those who would represent the popular will. The knowledge of this fact, shown repeatedly by the election of men notoriously in the employ of great corporate interests, has so aroused public sentiment that, as a matter of self-protection, the people of this Republic have reached the conclusion that it is far better to abandon the old method of permitting the legislatures to elect Senators and to trust all the people to elect their Senators by direct vote and thereby make it more difficult for those interests to put their agents in control of the power to make the laws of the Nation. If the change is made, these great corporate interests are responsible for it—they have had control of the Government; they have made the laws and amended the laws and prevented the enactment of laws in the interest of the public—and when they now cry out against this change in method of electing Senators, charging that it is an abandonment of representative government, the answer is, You have controlled representative bodies by putting your agents in control and you have by your conduct driven the people to demand a more direct method of selecting their own public agents; you have brought on the revolution that you now decry, and the people of the States will now speak directly in electing their Senators rather than through legislatures, a majority of whom may at times, at least, be controlled by improper and selfish influences.

Already many of the States have passed laws for the instruction by popular vote of their Representatives seeking to control their vote for United States Senators. There is no good reason for longer adhering to the old method, discredited so frequently by improper conduct of State legislatures failing to record the popular will. Protracted struggles in hard-fought contests, interference with general legislation, the furnishing of candidates with money to secure their nomination and election, thereby binding and controlling their vote for Senators; these and many other reasons suggest that fewer mistakes in the election of United States Senators would be made by trusting to a vote of all the people, voting directly, than by longer delegating the power to elect to their representatives and agents. Thomas Jefferson thought that United States Senators should be elected by the direct vote of the people. Those who believe in this matchless champion of the rights of the masses and their ability to intelligently govern the Republic can well afford to champion this measure seeking to elect Senators by direct vote of the people of each State.

Canadian Reciprocity.

SPEECH

OF

HON. LYNDEN EVANS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, April 19, 1911,

On the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes.

Mr. EVANS said:

Mr. SPEAKER: There seems to be a good deal of confusion of thought in the speeches of some Members of the minority and some of the majority on this bill, which the recital of a few facts should clear up.

First. It must be remembered that we sit here by virtue of a commission, actually made out on November 10 last by the people at the polls.

Second. That commission distinctly directed us to revise the tariff downward.

Third. It is now immaterial what were the causes that led the American electorate to make out that commission. To rehearse them would only tend to boastfulness as to political sagacity on one side or chagrin at the want of it on the other side. It is sufficient that the commission was issued, and that it was and is clear and decisive.

Fourth. There then remains but one thing to do for a Member of the majority of this House who wishes to really represent the people. Even of the minority so many have been returned by such reduced pluralities, saved, as it were, by the

skin of their teeth, that they too ought to heed the will of the people, for a tide does not abate until it has reached its full height, and there is another election for Congressmen next year. The President has wisely been aware of this; he has seen the handwriting on the wall. No Hebrew prophet was necessary to interpret that handwriting for him.

It was written in plain English, "The Republican Party has been weighed in the balance and has been found wanting." Hence we have the Canadian reciprocity agreement. But the will of the people can not be fully carried out at once under our system of government, because the President and the other House remain in the control of a minority party. The alternative is therefore presented either to take an academic and theoretical position and introduce our bills based upon the principle of a revenue tariff, or to be practical and in the short time at our disposal to accept such legislation as will, in any small measure, turn the dividends and profits of the privileged classes under the Aldrich tariff to feed and clothe not only the poor, but the great majority of the American people, namely, those whose incomes barely meet their expenses.

Fifth. That this reciprocity agreement is a step in the reduction of the Aldrich duties is evidenced as follows:

(1) By the howl of pain from the "sensitive pocket nerve" of the privileged classes, heard most clearly in the paper published by the American Protective Association and in the speeches of the granger insurgents.

(2) The reiterated statements on the floor of this House by the duly accredited leaders of the Republican side that this agreement is in principle opposed to the protective system.

3. The undisputed fact that this agreement revises the tariff, as far as Canada is concerned, downward. "Every little bit helps." There is therefore no adequate ground for a practical Democrat to refuse to vote for this measure.

But before I close there is one thing I wish to say about those numerous autobiographical chapters delivered last Wednesday by the distinguished Member from Illinois [Mr. CANNON]. He said that the only ground urged for this agreement was the statement that "Christ died for all men," and that therefore Canadians should be treated as Americans. He said that when young he had believed that Christ had died for all men, but that when he embraced the "Republican faith" he believed in protecting Americans. Aside from the irreverence of this and aside from the deep gulf he admitted to exist between the Christian and the "Republican faith," which I shall not dispute, his statements are significant as showing the desperate straits to which his retrogressive faction of the Republican Party has been reduced. Attacking a Republican President, attacking a Republican Secretary of State, attacking a measure reported favorably by the last Republican Congress, ignoring the voice of the people on November 10 last, and praising the Aldrich tariff as the best tariff we ever had, he has boldly burned his bridges behind him and has made the issue perfectly clear to the American electorate. Any measure that infringes upon the Aldrich tariff his faction of Republicans, aided by an affrighted faction of insurgents, will oppose. The Democratic position is exactly the opposite. Any measure which will reduce the Aldrich tariff, even in a small degree, we will support.

Canadian Reciprocity.

SPEECH

OF

HON. GEORGE W. FAIRCHILD,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 20, 1911,

On the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes.

Mr. FAIRCHILD said:

Mr. SPEAKER: This, in my opinion, is a most important question, fraught with greater menace to the welfare of the American people and to the State of which I am a citizen than any which has been submitted to Congress in many years. It is called reciprocity, but has been misnamed. It is nothing but a step in the direction of free trade and a slap at the policy of protection, which for years has been the chief distinction between a Democrat and a Republican.

Just where the difference between a Democrat and a Republican will be found to be after a Democratic majority in Congress has passed a measure proposed by a Republican President and repudiated by his own party, it will take a mighty ingenious campaign orator to explain.

One of the States most vitally interested in Canadian reciprocity is the State of New York, and the voice of her farmers is unanimously raised against its adoption. I represent in this body one of the greatest agricultural districts in New York. When, without adequate opportunity for analysis and the careful consideration that a measure of such great importance should have, Canadian reciprocity was presented to this body it was not only not fully understood here, but farmers throughout the country had only a vague idea of the effect it would have upon their interests. They have since been rapidly educating themselves, with the result that they are to-day unanimously against it; and the agricultural press of the country is almost without exception bitter in its opposition to it. I believe that Members of Congress also understand reciprocity better than they did. How any man representing an agricultural district can vote for the treaty now under discussion and expect to be returned to Congress is more than I can understand.

My business interests are largely along manufacturing lines, and I should, perhaps, be benefited to some extent should this proposed treaty with Canada become effective; but as a representative of an agricultural district I should be recreant to my duty and false to the people who sent me here if I did not raise my voice against Canadian reciprocity and in every honorable way oppose it.

It is a mistake for the people of large cities of this country to believe that only the farmer is to be affected by a change such as is proposed by this treaty. Every manufacturer and worker is interested in it. You can not take protection from the farmer and expect him to stand for protection to the manufacturer. He holds the balance of political power in this country and may be expected to use it to protect his interests.

The sole object of the tariff, as I understand it, is to tax the products of a foreign nation with a view to protecting our own. This particular measure under consideration does the reverse of this. It removes the tax on products of a foreign country and does not promote but depresses our own. We, as Members of this House, are asked to jeopardize the great agricultural interests of this country—to sacrifice, largely for sentimental reasons, the factor more than any other responsible for the growth, the development, and the supremacy of this Nation. I believe, Mr. Speaker, in holding fast to the sources of our wealth instead of relinquishing them to a foreign power. Agriculture is and always has been our greatest asset. A measure that will automatically add hundreds of millions to the value of Canadian property and as automatically take as great or greater valuation from property in the United States should not become law.

The State I represent in part in Congress is one of the great dairy States of this country. What affects one item of the products of the dairy affects all, milk being the basis of dairy production. Years ago we were large producers of cheese, in one year sending to England nearly 150,000,000 pounds. Canada at that time was not a factor in cheese production. She has since become more and more a factor, with the result that last year Canada exported to England 150,000,000 pounds of cheese, and we exported less than 2,000,000 pounds. Last year—and I desire to have the Members of the House give close attention to this statement—we produced in New York State 175,000,000 pounds of cheese. Our United States market was protected against the Canadian product by a duty of 6 cents a pound. Until recently the quotation on the same grade of cheese in the Utica market was 15 cents a pound and in the Montreal market between 10 and 11 cents a pound, almost the difference of the tariff protection.

Does anybody suppose for an instant that when we remove this barrier of 6 cents per pound on cheese that the great cheese and dairy interests of New York State will not suffer? It is almost impossible, even under conditions as they now exist, for cheese and butter makers and milk producers of New York State to make money. What in the name of common sense are we to do when we take down the bars and permit the Canadian products to come into our great home market without any restrictions whatever? What are we to get in return for it? Where, oh where, is your reciprocity?

Mr. Speaker, the recent census indicates that there are in the State of New York 650,000 less acres under cultivation than were cultivated 10 years ago. Just think of it, 650,000 acres practically abandoned in one brief decade! There has been recently in New York State an effort made looking toward repopulating the abandoned farms which are to be found in almost every county of the State. Canadian reciprocity will give the death blow to this movement. It will not repopulate, but depopulate. If it becomes a law, the prospects for the aver-

age New York State farmer, with his exhausted soil and his high fertilizing expense, are indeed dismal.

In the Payne law, I think because of oversight or lack of knowledge of the matter on the part of the members of the Ways and Means Committee, cream was admitted from Canada on a duty of only 5 cents a gallon. Great advantage has been taken by the Canadians of the low duty on cream, and enormous quantities have been shipped across the border and made into butter, which has come into open competition with the butter made in New York, Vermont, Pennsylvania, Ohio, Michigan, Illinois, Minnesota, and Wisconsin. Not one of these States gave a single electoral vote for the Democratic candidate for President. They have all stood solidly in favor of the protective policy, and they are entitled to consideration from every Republican on the floor of this House.

Mr. Speaker, I was interested in reading in one of our morning papers to-day a statement to the effect that emigration to Canada from the United States this spring is going to break all records, according to the information in the possession of the Canadian Immigration Department and the Canadian railroads. The Canadian Pacific Railroad announces that it has definite information as to 45,000 United States farmers who have engaged transportation for themselves and their families. Two hundred freight trains have already been chartered from the Northern Pacific and Great Northern Railroads for the transportation of the effects of these farmers, the total value of which is said to exceed $15,000,000. Last year, without reciprocity, a great many farmers went from the Western States to take advantage of the low-priced virgin land offered to settlers. What the result will be when our market of 90,000,000 of people is opened, without any restriction whatever, to the great undeveloped farming resources of Canada remains to be seen. It is not what Canada is to-day that we need fear, as much as what Canada will be when she is in possession of our markets and is able to offer them freely to immigrants.

I do not believe that Canadian reciprocity would ever have been suggested to this House if someone had not thought it would result in lower prices to the workers of the large cities. While I do not believe that this will follow, it must not be forgotten that prosperity is not measured by low prices of food products. Prosperity is measured by the number of smoke-stacks belching their black breath heavenward, by the number of men employed, and by wages they receive. And there are more men employed in the United States to-day, and at higher wages, than ever before in the history of this country—and this in the face of all talk about a business depression.

Each Member of this House must stand or fall by the discharge of his duty—to his conscience and his constituents. My appeal, regardless of politics, is to the men who know something of agriculture and its claims, and who represent in whole or in part an agricultural constituency; my appeal is to Republicans who believe in protection and who are unwilling to abandon a principle so vital and so closely associated with our party's development and with the development of our country; my appeal is also to Democrats, no matter where from, who represent agriculture, it matters not whether from North or South. What affects one agricultural interest must, directly or indirectly, affect all. No section of our great country is to-day more in need of the steadying hand of protection than the South. It needs diversified industries, and while it has had remarkable industrial development, the South, with its wonderful natural advantages, its splendid climate and its great undeveloped resources, should to-day be in the foremost rank of the advocates of a sound protective policy in this country.

We should not lose sight of the fact that this bill favors free imports of food products—that is, free importation of those agricultural products of Canada which will come into direct competition with similar products of all of the border States. The free importation of competing products means little if it does not mean free trade. It is what importers have clamored for since our country was first formed. Free imports are nothing if not the corner stone of free trade. There is not even an element of protection in the proposition, not even tariff for revenue only. It is just free trade. Why should the residents of the manufacturing districts of the cities demand free importation of wheat, oats, poultry, cheese, butter, eggs, and everything produced by the American farmer who lives in the border States unless they intend also to follow this with a demand for reciprocity with Cuba and other tropical regions, reciprocity in the matter of grapefruit, oranges, lemons, and other products of Florida and the other Southern States? What are the fruit growers of California, Oregon, and Washington thinking about that? If this bill is based upon sound economic conditions, what excuse can this Congress give or what excuse can the President give for not including the products of the Pacific coast? Representatives of the coast should understand that their turn will come next.

Competition in farm products incited Congress in 1824 to impose a series of duties. These duties have remained unchanged from that day to this. The duties on farm products were not changed by the Walker tariff, of 1846, nor were they changed by the Gorman-Wilson tariff, of 1894. Protection of agricultural products has been the settled policy of the country since 1824, except, of course, during the Canadian reciprocity of 1854, when we tried the experiment, paid dearly for it, and finally abandoned it.

What has built America? What has built up our new States with sturdy, staunch, and loyal yeomanry? What has induced Swedes, Norwegians, and Germans to settle on American farms instead of settling on the other side of the border? Our system of protection and our better markets are responsible for it. It is now proposed to take away that incentive for people to become citizens of the United States and to furnish an incentive for many thousand of citizens now located here to move to a neighboring country. It is intended, by making the cultivation of Canadian soil more profitable, to induce thousands of citizens to absolve themselves from allegiance to our flag and to emigrate to a foreign country and take with them their skill, their industry, and their wealth. All this comes from the mistaken idea that to depress the price of the products of the American farmer by competition with Canada will give cheaper food supplies to the country.

What will the farmer say? Go talk with him as I have talked with him. Will he submit to it? It has been said that if something of this kind is not done the whole protective system will be destroyed. What more effective method for destroying protection, however, could be found than to strip protection from one-half of the loyal supporters of the cause, destroy that unity of interest which has existed now for nearly a century, and implant in the breasts of the farmers of this country a spirit of retaliation against the artisans of the cities, the men who conduct the factories, and the people who depend upon our industries for their livelihood and success in life?

Gentlemen, history will repeat itself. The agricultural interests of no country on the face of this globe have ever been attacked unless business depression has followed. The countries that have prospered most are those that have best protected agricultural interests. A notable example of this is to be found in France, whose protection of her farmers has made her one of the most prosperous nations of the earth. The principle of protection is vitally at stake in this issue. It does not matter who may advocate it, I am opposed to reciprocity because I believe it to be unjust to our party and unjust alike to our farmers and to our great industries. Mr. Speaker, I speak on this question with an intimate knowledge as to agricultural conditions in the great State of New York. I know the farmer there; I know his surroundings; I know what he is up against as well, I believe, as any man; and I know as well as anyone how badly he will be hit if this agreement with Canada is sanctioned by Congress. In behalf, therefore, of the farmers of my district and my State I desire to protest against the passage of this measure. I know that the sentiment of the great cities appears to be for it, but the people of those cities, as a rule, do not understand how closely their interests are related to the interests of the farmer. If they did, both they and their representatives would join with me in my opposition.

Admission of New Mexico and Arizona—Recall of Judges.

SPEECH

OF

HON. CHARLES E. PICKETT,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 19, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona—

Mr. PICKETT said:

Mr. CHAIRMAN: There is no subject of greater importance to a people than the system of government under which they live, and this is particularly true of a representative form of government. Its importance is not alone of the present but of the future as well. Indeed, the most weighty consideration, either in the original construction of a form of government or in considering changes thereof, is the element of stability, that which will insure permanence.

When our forefathers met to establish "a more perfect Union" of the then confederated colonies, they might, perhaps,

with greater ease have solved some of the practical problems confronting them by adopting a system fashioned to their immediate conditions, but, prompted by a noble ambition to lay the foundation for a great and enduring Republic and mindful of the many contingencies possible among a free people, surrounded the system of government upon which they finally agreed with such checks and balances and safeguards as would in their judgment insure perpetuity.

That the Constitution of the United States is the greatest constructive document ever given to the world is confirmed not only by the experience of nearly a century and a quarter in the school of self-government, but is conceded universally and even by those who have watched its success with jealous eyes. Indeed, when you study the Constitution in the light of its seeming anticipation of conditions nonexistent and unknown, and its adaptability to the needs and requirements of the succeeding generations with their new problems and changing views it seems like the work of inspiration.

In looking back over the 122 years of our national life, with the great issues that have from time to time agitated the public mind, in one instance involving the very integrity of the Union, a people naturally creative, self-reliant, and progressive, and not lacking in able leaders of new movements, the limited number of amendments that have been made evidences the perfection of the Constitution, reflects the abiding faith of the people in its wisdom, and points to a conservatism in making changes that admonishes us to act with solemn care on any question involving the fundamentals of our Government.

The first twelve amendments were contemporary or supplemental in character. The thirteenth, fourteenth, and fifteenth were the result of the slavery question and the Civil War. Beyond these the Constitution stands to-day as when originally adopted, and the same may be said of those great principles which, while not directly expressed, nevertheless enter into and form a part of our basic law, one of the most important of which, if not the most important, being the independence of the judiciary.

I therefore desire to occupy the time allotted to me in considering the issue presented by the provision in the proposed constitution of Arizona for the recall of judges, believing it to be inconsistent with an independent judiciary.

It is a significant fact worthy of notice that even the report of the majority does not approve this provision. No member of the committee, so far as the record discloses, has submitted views approving it. The report says:

> The committee has also in its resolutions suggested an amendment to the proposed constitution of Arizona providing that the judiciary of the new State shall not be subject to the recall from office by popular vote. This amendment is not made mandatory, but is merely proposed and is to be submitted to the electors for their ratification or rejection at the first general election for State and county offices.

I commend the majority members of the committee for going to the extent they have in voicing their disapproval of the recall of judges, but regret that they have not boldly met the issue and decisively recorded their convictions by making the rejection of the provision a condition precedent to the admission of the Territory to statehood. They seek to shift the responsibility by urging that the right to determine the question rests with the people of Arizona and not with Congress, that the recall of judges is not inconsistent with a republican form of Government, and that the power of Congress is limited to that test.

The position of the minority, as I understand it, is that the provision for the recall of judges must be stricken out, either directly or by construction, before the constitution will be approved and the Territory admitted to statehood. The majority report is, in effect, an implied approval by Congress of the provision; the minority view, an expression of disapproval. The issue is, therefore, clearly drawn. While some of the gentlemen who have had the floor to-day have, with great plausibility, sought to shift the responsibility, I say to you that in the judgment of history, as it will be recorded, the issue is here and it is our duty to meet it. [Applause.]

The enabling act not only requires that the constitution to be adopted by the people of the Territory shall be republican in form and not repugnant to the Constitution of the United States, but goes further and provides that it must be approved by the President and by Congress, so that under the very terms of the enabling act there is the reservation of the right of disapproval. But outside of the enabling act Congress has the unquestioned power and right to disapprove it and to impose whatever further conditions it may see fit.

Those who claim that Congress is limited to the question, "Does the proposed constitution give a republican form of government?" seek shelter under section 4 of Article IV of the Constitution, which provides:

> The United States shall guarantee to every State in this Union a republican form of government.

I do not concur in the view that the power of Congress in respect to the matter comes under section 4. That section goes to the question of the Federal Government guaranteeing a republican form of government to every State whether seeking admission to the Union or already a member of the Union. It is a continuing guaranty—one of the mutual covenants of the people for their own protection that the power of the Federal Government shall always secure to the people of every State a republican form of government whether the encroachment thereon comes from within or without. Beyond this, it is a power necessary and essential to preserve uniformity in our forms of government. Those who find in section 4 a limitation of the power of Congress have simply jumped at a conclusion without pausing to analyze the subject.

The grant of power to Congress over the admission of new States is found in section 3 of Article IV, as follows:

> New States may be admitted by Congress into the Union.

The grant of power is without limitation or restriction, and under it Congress possesses and has always exercised broad power in respect to the admission of States. Congress is not confined within the narrow limits claimed. The authority which the gentleman from Mississippi [Mr. HUMPHREYS] read a short time ago recognizes the distinction.

As early as 1802 the act under which Ohio was admitted prescribed that its constitution should not be repugnant to the ordinance of 1787. The action of Congress when Orleans was admitted is a forceful precedent. The people of the Territory had been governed by the civil law and regarded trial by jury as a departure from their traditional form of government, but Congress required that trial by jury be guaranteed in the constitution. The Territorial legislative and judicial proceedings had been conducted in the French and Spanish languages, but Congress required that they be conducted in the English language.

From that time to the present Congress has always exercised the broadest power in passing on the admission of States and has based it on section 3 and not on section 4. Take the enabling act before us, and it contains conditions other than those that come within the strict construction of a republican form of government. I want to submit a paragraph from the opinion of the Supreme Court in Boyd *v.* Thayer (143 U. S., p. 163):

> By section 3 of Article IV of the Constitution "new States may be admitted by the Congress into this Union." The section, as originally reported by the committee of detail, contained the language: "If the admission be consented to, the new State shall be admitted on the same terms as the original ones. But the legislature may make conditions with the new States concerning the public debt which shall then be subsisting." These clauses were stricken out, in spite of strenuous opposition, upon the view that wide latitude ought to be given to the Congress and the denial of any attempt to impede the growth of the western country.

The debates in the convention confirm the view here expressed and show the clear intention to give to Congress the widest latitude in the admission of States. In short, not to place any limitation on the power of Congress in passing on the admission of a Territory to statehood.

Take the case of Nebraska. Congress passed an enabling act containing the usual provisions, and the Territory of Nebraska complied with the enabling act. When the constitution of the Territory was presented to Congress, although Congress expressly found the constitution to be in conformity with the provisions of the enabling act and *to be republican in form*, nevertheless imposed further conditions. Let me read briefly from the act of Congress in order that there may be no possible misunderstanding as to the statement I have made:

> Whereas on the 21st day of March, A. D. 1864, Congress passed an act to enable the people of Nebraska to form a constitution and State government and offered to admit said State, when so formed, into the Union, upon compliance with certain conditions therein specified; and
>
> Whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act and *to be republican in its form of government*, and that they now ask for admission into the Union: Therefore
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*—

Then follows the acceptance, ratification, and confirmation of the constitution and the State government of Nebraska—that it is to be one of the States of the Union, and so forth. The act then proceeds:

> SEC. 3. *And be it further enacted*, That this act shall not take effect except upon the fundamental condition—

And then follows the condition relative to the change demanded in the elective franchise.

Mr. BOOHER. Will the gentleman yield?

Mr. PICKETT. Certainly.

Mr. BOOHER. Congress held that the constitution was not in form because it did not contain certain provisions in regard to suffrage.

Mr. PICKETT. Congress held expressly that it was republican in form. The resolution of Congress, which I have just read, says:

And to be republican in its form of government.

Mr. BOOHER. Yes; they passed upon that and then said before they could be admitted they must provide for the separate amendment. I admit that Congress has a right to do it, but the question here is, Is the constitution of Arizona constitutional or not?

Mr. PICKETT. That is not the question I am discussing. I am laying down the proposition that Congress has unlimited power over the admission of Territories and am citing precedents where Congress has exercised that power, and even after finding the proposed constitution of a Territory to be republican in form, and in conformity with the enabling act, has proceeded to impose further conditions.

Mr. BOOHER. I think the gentleman is right.

Mr. PICKETT. The point I make is that until the constitution of a Territory seeking statehood is approved it amounts to no more than the blank paper upon which it is written.

Mr. BOOHER. Suppose the President refuses to approve it and Congress approves, what is the situation of Arizona?

Mr. PICKETT. The enabling act requires the approval of the President.

Mr. BOOHER. Suppose Congress approves it and the President should veto this new resolution?

Mr. PICKETT. The resolution requires his signature.

Mr. BOOHER. And we have given our power to the President to say whether the Territory shall become a State.

Mr. PICKETT. The enabling act provides for his approval and the joint resolution requires his signature, as the gentleman understands.

Mr. BOOHER. What I want to get at is this: Suppose Arizona should elect Members of Congress and a governor and the regular State officers and that the Members of Congress should come here and ask for admission and we admitted them, is not Arizona a State in the Union then?

Mr. PICKETT. That question is based on the assumption that Congress, notwithstanding the constitution is not approved by Congress and the President and proclamation of statehood issued, as provided in the enabling act, admits the Senators and Representatives. That question is not before us. We are considering the approval or disapproval of the constitution, which I contend is before us and that it is our duty to pass upon it.

Mr. BOOHER. Will the gentleman yield?

Mr. PICKETT. Certainly.

Mr. BOOHER. I want to say that I am informed by the former Delegate from Arizona [Mr. Smith] that the United States Supreme Court has decided that identical question on the election of Senators and Representatives in Congress.

Mr. PICKETT. It is my recollection that the Supreme Court has held that the admission by Congress of Senators and Representatives is a recognition of the authority of the government under which they are elected.

Mr. BOOHER. The gentleman and I agree on that thoroughly.

Mr. PICKETT. It would hardly be expected, however, that Congress, if it refused its approval of the constitution, would admit Senators and Representatives elected in defiance of its action. I am contending for the position that Congress should now take in the matter. The reason that would impel us to take adverse action now would impel us to the same action in passing on the admission of its Senators and Representatives.

So far as Congress is concerned its power is complete. It can approve or disapprove without recourse. In brief, the responsibility is here, and it is for us in passing upon the constitution to say whether we approve or disapprove of the recall of judges. The power to do so carries the right to do so and implies the duty to do so.

So believing, I desire to discuss for a few moments the position of the judiciary in our system of government. Any measure affecting our judiciary system should be considered calmly and with that high-minded patriotism worthy of its importance. It is not and should not be a partisan issue. No feeling of loyalty to party colleagues should control us in such matters.

The cardinal principle on which our Government is predicated is the distribution of the powers of government and an integral part of that system is the independence of the judiciary. This latter is, perhaps, the most original feature of our system. It was intended to obviate the evils which other forms of government without it had experienced, and supplant their weakness by its strength. It enters into the very essence of our Government.

No branch of the work of the Constitutional Convention was considered with greater deliberation than the creation of the judicial department. The central purpose on which the minds of the framers of the Constitution met in practical unanimity was for an independent judiciary. During the progress of the debate suggestions were offered to make the judiciary advisory to the executive and legislative departments, but these suggestions were promptly rejected when upon discussion it appeared that the independence of the judiciary would be thereby impaired. One of the most noteworthy debates related to the tenure of and removal from office of the judges. The proposition that judges should be removable by the Executive on joint address of the Senate and House secured but one affirmative vote in the Convention.

In discussing the proposition, Mr. Wilson, of Pennsylvania, said:

Chief Justice Holt has successfully offended by his independent conduct both Houses of Parliament. Had this happened at the same time he would have been ousted. The judges would be in a bad situation if made to depend upon any gust of faction which might prevail in the two branches of government.

The great ability of Mr. Wilson is just becoming recognized. He was one of the constructive minds of the Convention, and, by the way, he was the first to suggest that some method be adopted whereby the people could express their preference in the choice of a chief executive. He also suggested the election of Senators by the people. He had faith in the ability of the people to govern themselves and was one of the foremost advocates of representative government, and yet he recognized the necessity of removing the judiciary from every influence or power that could affect its independence.

What would that same Constitutional Convention say to-day of the popular recall of judges as found in the Arizona constitution?

Our Government is founded on a written Constitution. It was the voluntary act of the people. It was adopted by the people for their protection. Limitations and restrictions are naturally inherent in our form of government. They are indispensable for its stability and perpetuity. Congress is the highest legislative body in our Republic, chosen for the purpose of carrying into execution the will of the people, but it can not encroach on constitutional limitations, and when it does so its acts are declared invalid by the judiciary, and since the power of the judiciary to do so was held by Marshall to the present time the people have acquiesced in this limitation upon the power of their representatives as a necessary safeguard and indispensable to the preservation of the limitations they have themselves created. Our Chief Executive, although the temporary ruler of our people and the Commander in Chief of the Army and Navy, can only act within the powers conferred on him.

It was intended that our judiciary, although a part of our system of government, should be independent. It differs from the other departments of government in that it was not intended to represent the people in the sense of representatives chosen by the people to carry out the popular will. Its function is to interpret the law without leaning one way or the other and irrespective of whether that interpretation be popular or unpopular. They are the arbitrators between the people on the one hand and the individual on the other. It is their duty to protect under the law the minority or the single individual, even though he stands alone against the whole people. It is their duty to protect the people against the people themselves when they overstep the limitations created for their protection. In this way only can the stability of our judiciary be secured, and, furthermore, the confidence which our people must repose in the judiciary can not be maintained unless the decisions of our courts are rendered according to the general principles which must govern the interpretation of law. Upon any other basis our judiciary could not perform the function for which it was designed. This was the theory on which our Constitution was predicated. It may not be found in the express letter of the Constitution, but it is the spirit of the Constitution. It is one of the implied principles of our Constitution which is just as potent as to its implied powers and principles as to its expressed powers and principles. The framers of the Constitution realized the necessity for these limitations and restrictions, and the people realized them as well.

No clearer exposition of the duties of the judiciary has ever been given than that given by Webster, speaking in the House on the judicial system in 1826:

It is the great practical expounder of the powers of the Government. No conviction is deeper in my mind than that the maintenance of the judicial power is essential and indispensable to the very being of this Government. The Constitution, without it, would be no Constitution; the Government no government. I am deeply sensible, too, and, as I think, every man must be whose eyes have been open to what has passed around him for the last 20 years, that the judicial power is the protecting power of the Government. Its position is upon the outer wall. From the very nature of things and the frame of the Constitution it forms the point at which our different systems of government meet in collision, when collision unhappily exists. By the absolute necessity of the case the members of the Supreme Court become judges of the extent

of constitutional powers. They are, if I may so call them, the arbitrators between contending sovereignties.

Our judicial system has commanded the admiration of the world. It is pointed to as the most perfect system that has ever been devised, as the greatest safeguard for a free people. Mr. Bryce, in his American Commonwealth, in speaking of our Supreme Court, says:

The Supreme Court is the living voice of the Constitution—that is, of the will of the people expressed in the fundamental law they have enacted. It is, therefore, as some one has said, the conscience of the people, who have resolved to restrain themselves from hasty or unjust action by placing their representatives under the restriction of a permanent law. It is the guarantee of the minority who, when threatened by the impatient vehemence of a majority, can appeal to this permanent law, finding the interpreter and enforcer thereof in a court set high above the assaults of faction.

To discharge these momentous functions the court must be stable even as the Constitution is stable. Its spirit and tone must be that of the people at their best moments. It must resist them the more firmly the more vehement they are. Intrenched behind impregnable ramparts, it must be able to defy at once the open attacks of the other departments of the Government and the more dangerous because impalpable, seductions of popular sentiment.

De Toqueville, in his Democracy in America, in speaking of our judicial system, says:

A more imposing judicial power was never constituted by any people.

Lord Brougham pays this tribute to our judiciary:

The power of the judiciary to prevent either State legislatures or Congress from overstepping the limits of the Constitution is the very greatest refinement in social policy to which any state of circumstances has ever given rise or which any age has ever given birth.

The judgment of these distinguished students of the science of government is corroborated by the best thought of the world. It has never been questioned in this country until, perhaps, this movement of recent years.

Without proceeding further on this branch of the subject, I will reiterate by way of emphasis that the independence of the judiciary is one of the fixed purposes in our system of government, one of the fundamental principles upon which it rests, and that whatever affects it should be weighed with solemn care.

The recommendation of the minority members of the committee is, in substance, that the provision in the Arizona constitution relating to the recall of public officers shall not apply to judicial officers, which leaves the provision applicable to all other public officers, so that the sole question now before us is the recall of judicial officers.

The question has frequently been asked during the progress of this debate, and with apparent candor, wherein lies the distinction between executive, administrative, and legislative officers on the one hand and judicial officers on the other, in respect, of course, to the recall? There is to my mind a clear and vital distinction. It is our theory of government that the legislative branch, either Federal or State, should reflect the will of the people. That the voice of the majority should be crystallized into law, always, however, within the limitations and restrictions of the constitution. The constitution stands as the permanent will of the people. It is supreme and paramount even to the people themselves, acting through the legislative department. It can only be changed in the method agreed upon in the instrument itself. It is impossible for the people to assemble for the purpose of direct legislation; they must choose representatives to act for them.

In practical operation candidates for legislative office go before the people on platforms embodying the principles for which they stand, and besides they make declarations as to the policies and laws which they will favor or oppose. This is true also of candidates for executive offices. They are generally elected on platforms and announce policies by which they will be guided. Candidates for administrative office, State or city, usually declare their position on questions in which the people are interested. As to all of these offices, executive, legislative, or administrative, there is a covenant that the promises or pledges made pending election as an inducement to the voters will be carried out in good faith. In municipal affairs candidates for mayor or alderman announce their position as to matters of public interest—to illustrate, whether they will favor or oppose certain public improvements—and these issues are frequently the impelling motive for the decision of the voters. In brief, the people determine their legislative, executive, and administrative policy. I am not discussing the merits or demerits of the general proposition of the recall of public officers. That issue is not before us. I am simply trying to point out the distinction between this class of officers and judicial officers, between the judiciary and the other departments of the Government.

Judges are not elected on an expression in advance as to how they will hold in a certain case, how they will construe a constitution or statute, or whether they will or will not enforce by their decrees a certain law, be it popular or unpopular. If such a system prevailed it would mean chaos in government. Judges, as I have already urged, are not chosen to represent the people in the representative sense that applies to legislative or executive officers. They are chosen to expound, construe, and interpret the law and apply it to the facts before them, irrespective of whether their decision meets with popular favor or disfavor. Any other rule would be destructive of the principle on which our judiciary is based. It marks the difference between defiance of law and respect for law; between anarchy and constituted authority. The moment we imperil supremacy of law we invite disaster. Certainly no one who believes in government by law would suggest that judges should declare before a case comes before them what their decision will be; and yet it seems to me that the recall of judges will do this very thing. Here is a case in which there is great public interest—unanimity of feeling as to what the law ought to be—a conviction, so to speak, in the minds of the people, intensified, perhaps, by great sympathy or prejudice. The judge rules according to the law and the evidence. The people are wrought up and the judge is recalled. His successor is elected. The supreme court affirms the decision in issue. What is the position of the newly elected judge? Before him, on the one hand, is the law announced by the supreme tribunal of his State, and, on the other, his election on the implied, if not direct, issue of the decision of his predecessor. The administration of the law under such circumstances would become a travesty. It is not infrequent for a State to enact a law pursuant to the demand of a majority of the people of the entire State that is extremely unpopular with the people of different localities within the State. Should a judge who is called upon to construe and apply and enforce that law in such localities be confronted with the recall? A statute is enacted pursuant to popular demand and on an issue which has aroused intense feeling. The supreme court declares it invalid for sound legal reasons. Popular resentment follows. The question is raised, Why not recall the judges who are thus thwarting the will of the sovereign people? Is not such a situation fraught with danger? If the recall should prevail in such a case, the very limitations which the people have created for their own protection are ruthlessly swept away and the cardinal principles on which our Government rests—the distribution of the powers of government and the independence of the judiciary—necessary for the stability and permanency of our institutions, are brushed aside.

Can we expect an independent judiciary with the recall? Are not the two inconsistent and irreconcilable? Is it fair to the judge, whom we expect to stand erect and perform his duty fearlessly and administer the law as he finds it, to be confronted with the recall for a decision that is unpopular?

Under the proposed constitution of Arizona the judge is given the privilege of justifying his action in 200 words, which is little more than a burlesque on justice.

We need the very best judges we can secure—men who are able, upright, courageous; men of high ideals. Will the recall aid us in securing such judges? Will it not in itself have the effect to deter the very men whom we desire and need from accepting judicial positions?

Those who advocate the proposition fall back on the general affirmation that all power rests with the people, which is true; but the people must exercise, and can only exercise, their power through methods they have themselves prescribed; and there has never been a time when any serious student of government has contended that there should not be limitations and restrictions imposed for the purpose of preventing hasty action or action that is the result of temporary excitement or prejudice, and this thought has been adopted by the people and incorporated, I might say, into every branch of their organized affairs. There is scarcely an organization—political, civic, business, fraternal, or religious—that does not embody in its fundamental law, so to speak, provisions to protect the minority or to prevent hasty or ill-advised action by requiring notice to be given of amendments or changes proposed, a time fixed and notice served for the consideration thereof, and usually more than a majority vote is required to effect a change. In many of our civic, fraternal, and religious organizations the principle of an independent judiciary has been adopted, so that it may be said that the principle on which our judiciary rests and the issue involved in the matter before us permeates our entire institutional system.

But it is urged that our people can be trusted to use the recall as to the judiciary; that they will not abuse it. Ordinarily this is true. I have absolute faith in the ultimate judgment of the people, and yet we do know that there have been times in our history when if the people had expressed themselves during moments of temporary excitement or prejudice or when following some popular leader or person clothed with

high official position, they would have done that which upon reflection they would not have done.

The advocates of the recall of judges say that an upright judge will not be disturbed; that it will only be used against the unworthy judge. The case of Marshall is a striking and forceful historic precedent. Marshall, the greatest constructive jurist the world has produced, is conceded by all to stand side by side with Mansfield. He was appointed Chief Justice in 1801 just a few weeks before Jefferson was inaugurated President. The bitter controversy between Jefferson and Marshall, both personal and official, is known to every student of American history. The opposition of Jefferson to Marshall was carried into Congress and before the people. The act passed prior to Jefferson's administration establishing separate circuit courts was repealed at his instance by Congress after he became President, and Congress passed a further act abolishing the August term of the Supreme Court in order to prevent the Supreme Court from passing on the legislative act for at least a year. Impeachment proceedings were instituted against Associate Justice Chase, and history tells us that it was the first of a series of impeachment proceedings with the design of impeaching the entire court with the ultimate aim of destroying Marshall. The proceedings against Justice Chase failed and the plan was dropped. A resolution was then introduced in Congress providing for an amendment to the Constitution making the Justices of the Supreme Court removable by the President on joint address of both Houses of Congress.

Jefferson's view of the Supreme Court, as well as his feeling toward Marshall, is well illustrated when, in referring to the Supreme Court, he says:

> An opinion of the court is huddled up in conclave, perhaps, by a majority of one; delivered as unanimous and with the silent acquiescence of lax or timid associates by a crafty judge who sophisticates the law to his own mind by the turn of his own reasoning.

Not content with this expression of his feeling toward the court and its Chief Justice, he goes further and urges Congress to act, as follows:

> A strong protestation of both Houses of Congress that such doctrines advanced by the Supreme Court are contrary to the Constitution; and if afterwards they relapse into the same heresies *impeach and set the whole adrift.*

Which confirms the statement of historians that Jefferson was back of the plan to impeach the justices of the Supreme Court one by one in order to get rid of Marshall. Speaking of Marshall he says:

> The ravenous hatred which Marshall bears to the Government of his country; the cunning and sophistry within which he is able to enshroud himself; his twistification in the case of Marbury, in that of Burr, and the late Yazoo case show how dexterously he can reconcile law to his personal biases.

These brief extracts show clearly the attitude of Jefferson toward Marshall. Is there any doubt in the mind of anyone who has read the history of our country during those times that the recall would have been used by Jefferson against Chief Justice Marshall, and with his great power and popularity and the prestige of his office who can say that he would not have been successful?

And what was Marshall doing? He was upholding those sovereign powers which vindicated our Federal Government and made our Nation possible, and under which we have moved forward in our spendid career, the very powers under which Congress is to-day enacting legislation necessary to protect the rights of our people and preserve our Government for those for whom it was purposed. Certainly no one would deny the calamity that would have befallen our country if Chief Justice Marshall had been recalled.

In 1829 Virginia held a constitutional convention, and all of her surviving patriots and statesmen of the revolutionary period—men whose names are interwoven not only in the annals of Virginia but of the Republic—were summoned to sit in the convention. Among them were ex-President Madison, ex-President Monroe, and Chief Justice Marshall. Speaking on the judiciary in that convention, Marshall said:

> Advert, sir, to the duties of a judge. He has to pass between the Government and the man whom that Government is prosecuting—between the most powerful individual in the community and the poorest and most unpopular. It is of the last importance that, in the exercise of these duties, he should observe the utmost fairness. Need I press the necessity of this? Does not every man feel that his own personal security and the security of his property depend on that fairness? The judicial department comes home, in its effects, to every man's fireside; it passes on his property, his reputation, his life, his all. Is it not to the last degree important that he should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience?

These words come to us with peculiar force when we recall the experience through which Marshall passed for over a quarter of a century.

I have cited this illustration, and there are many others, for the purpose of showing the danger that lies hidden in the recall of the judges. There lurks within it the destruction of the independence of the judiciary, and when its independence is lost the judiciary will fail of the high function for which it was designed. It is, in my judgment, a vital and important safeguard of our institutions, and I for one am not willing to take any step that will tend to imperil it. [Applause on the Republican side.]

I am glad to note that the distinguished governor of New Jersey, considered as one of the probable Democratic nominees for the Presidency, and who is now making a tour of the country delivering speeches on questions of public interest, although approving of the initative and referendum and recall, draws the line on the application of the recall to the judiciary. For the benefit of the Democratic Members I want to quote briefly from one of his recent speeches, when he said:

> The recall of judges is another matter. Judges are not lawmakers. They are not administrators. Their duty is not to determine what the law shall be, but to determine what the law is. Their independence, their sense of dignity and of freedom is of the first consequence to the stability of the state. To apply to them the principle of the recall is to set up the idea that the determinations of what the law is must respond to popular impulse and to popular judgment. It is sufficient that the people should have the power to change the law when they will. It is not necessary that they should directly influence by threat of recall those who merely interpret the law already established.

I can not reconcile the position of the gentlemen who while saying that they are opposed to the recall of judges are yet willing to approve of the Arizona constitution containing such a provision. If you are not in favor of the recall of judges, why not record your conviction so that the people can point to this act of Congress as an expression of its judgment against it? [Applause.]

Mr. FLOOD of Virginia. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Virginia?

Mr. PICKETT. Certainly.

Mr. FLOOD of Virginia. I would like to have the gentleman's opinion—I was out a little while ago, and did not hear all that he said—as to whether the proposition of the recall, as applicable to the judiciary in a constitution, renders that constitution or the government in the State where that constitution operates unrepublican in form?

Mr. PICKETT. As the gentleman knows, the courts have passed on the initiative and referendum, and I believe also as to the recall, so far as the legislative and executive departments of the Government are concerned, but I do not believe the courts have ever passed on the question of the recall of judges. Is that correct?

Mr. FLOOD of Virginia. I think so.

Mr. PICKETT. I am not given to expressing so-called "horseback opinions" upon mooted constitutional questions. I will briefly say that I think the question can be presented to the very serious consideration of the courts. But I will say to my friend from Virginia that I am not basing my argument on the legal proposition that this provision makes the Arizona constitution unrepublican in form, but upon the broad proposition that it is not a wholesome but a dangerous innovation in our system of government, and that it is our duty to say so.

Mr. FLOOD of Virginia. I caught the drift of the gentleman's argument, but I was desirous of getting his opinion upon the proposition I submitted.

Mr. PICKETT. It certainly will not be denied that the recall of judges is a radical departure from our methods in respect to the judiciary up to this time, either Federal or State, leaving out of our consideration for the present the principle which I believe is involved. It is an innovation. But it must be remembered that to innovate is not always to reform. That which is given the name of reform is not always reform in fact. I believe just as firmly as anyone does in progress, but I want to know that the step proposed will lead forward and not backward. What reason exists? What cause has been urged? What facts have been presented in support of the recall of the judiciary? None whatever. The judiciary has had many grave and serious problems before it. There have been cases where the interest of the people was most acute and intense, and be it said to the credit of the people that they have bowed with respect and confidence before the decrees of our tribunals. They realize that this must be a government by law. It is to me a sublime spectacle to behold a tribunal clothed with the ermine robes of peace pronounce decrees which the ruler of the Nation, with the Army and Navy at his command, obeys, before which sovereign States bow, and a mighty people yield obedience. Since the Supreme Court was established there is no instance where its decrees have ever been defied. This is the very perfection of self-government; and yet we are asked to stamp our approval on a vital and radical innovation as to our judiciary,

to discard that which has been tested and justified by over a century and a quarter of experience and adopt that which is speculative and experimental, without any sound reason being advanced for the change.

Let me commend to your consideration for guidance in such cases the words of Lincoln:

I do not mean to say we are bound to follow implicitly in whatever our fathers did. To do so would be to discard all the lights of experience—to reject all progress, all improvement. What I do say is that if we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive and argument so clear that even their great authority fairly considered and weighed can not stand.

In the light of these words, again I ask, What grounds have been stated that would prompt us to give our sanction to this new scheme in government? The Constitution invests Congress with the power of passing upon the admission of States into the Union; the approval or disapproval of their form of government, and in this very case the enabling act requires that the constitution of Arizona be approved by Congress. Our duty is clear. To me it is mandatory. Why hesitate to disapprove of that which is admitted to be wrong? [Applause.]

Mr. BOOHER. Will the gentleman permit a question?

Mr. PICKETT. Certainly.

Mr. BOOHER. Suppose the House should adopt the minority report, making it a condition precedent to the admission of Arizona that she should adopt this amendment, that she should withdraw the recall so far as applied to judges. Would there be anything to prevent the State of Arizona, after it came in, from submitting that question anew and making it a part of the constitution by an amendment?

Mr. PICKETT. No; unless it would be held to be in conflict with a republican form of government, and as to that I have no decided views, as I have stated.

Mr. BOOHER. Conceding that it would be republican in form, and we should make it a condition precedent, after they become a State, what would prevent the submission of an amendment to the people, and then having the recall applied to the judiciary?

Mr. PICKETT. Nothing whatever; but it would not be submitted to Congress for approval.

Mr. BOOHER. Then, I understand the only objection my friend has is that he does not want to approve it.

Mr. PICKETT. I do not want to approve it, and I do not think it is the duty of Congress to approve it. And if we believe that way, I think we ought to say so and let our judgment stand before the people.

Mr. BOOHER. We do not accomplish anything by it.

Mr. PICKETT. Oh, yes, we do.

Mr. BOOHER. You would register your disapproval?

Mr. PICKETT. Further than that, the action of Congress will be cited where the question is in issue, which I understand is the case in California now, and perhaps in other States. The influence the decision of Congress will exert should not be overlooked; it is important. If a Member approves of the recall of judges as to Arizona, can he consistently take a different position elsewhere? Is he not practically estopped?

Mr. BOOHER. A man would not be estopped from voting against it or opposing it in his own State simply because he voted first here, to let Arizona pass upon it themselves.

Mr. PICKETT. Perhaps some may construe their duty that way, but I feel it to be our duty to approve or disapprove now—to meet the issue and not attempt to shunt the responsibility devolving upon us. If Arizona becomes a State it will have a right to do as it pleases.

Mr. BOOHER. That is the admission I wanted my friend to make; that after admission they can do as they please.

Mr. PICKETT. Certainly there is no dispute about that, provided, of course, it is not held to be unconstitutional, on which question I would not attempt to say what the courts would hold. I will say, however, that if it is not, strictly speaking, in conflict with the express provisions of the Constitution, it is inconsistent with its spirit and the principles on which our Government is founded.

Mr. Chairman, I yet hope that those who affirm their opposition to the recall of judges will consider and weigh the effect of the action of Congress on the further discussion of this question in other forums. What is here done is written into the permanent records of our history and perhaps in years to come will be pointed to as a precedent. Let us say to the people of Arizona: Adopt a constitution in conformity with sound principles of government as understood by Congress—the body clothed by the sovereign people under the Constitution with the duty of approving it—and you will be admitted to statehood, but not until them. This, Mr. Chairman, is our duty and the test will be not what we say here in debate, but how we vote, which is the record expression of our judgment. [Applause.]

Reciprocity with Canada.

SPEECH

OF

HON. GILBERT N. HAUGEN,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 6, 1911.

The House having under consideration the bill H. R. 4413, the farmers' free-list bill—

Mr. HAUGEN said:

Mr. CHAIRMAN: Inasmuch as it was generally understood and agreed that nothing could be said or done to defeat the passage of the proposed Canadian reciprocal agreement which passed in the House this and last sessions, and as I offered a few observations on the measure when under consideration last session, I did not take up any time in this House in discussing it at this session; but now that this free-trade proposition has been brought in, which evidently has for its object the establishment of free trade for the farmer for what he has to sell and leaving a high protection on what he has to buy, or the driving of the last nail in the coffin—the death-dealing blow to the agricultural industry—I can not permit this injustice to be perpetrated without at least offering a protest.

Free trade with Canada in agricultural products is, I believe, unjust to the farmer, and I believe will prove injurious to the factories, mills, and consumers as well; and when that bill was passed I hoped that free-trade advocates would be satisfied. But now comes this proposition to extend free trade to the world. The American farmer, farming $100 an acre land, paying $35 and board per month for help, is now to compete not only with the cheap and fertile farms of Canada, but with the cheap labor and productive soil of the world. In Iowa, where labor is paid from $25 to $40 per month, land selling from $50 to $200 per acre, cattle raised on these high-priced lands are to be sold in competition with the carcasses of the cattle raised in Old Mexico and other countries of the world, where grazing lands are sold at about 20 cents an acre, labor employed at from $4 to $12 a month. His corn, oats, and wheat flour are to be sold in competition with flour produced on cheap and productive farms of the world and where labor is employed at 10 cents per day. In return he is supposed to get free lumber. Let us see about that. Canada is the only country in the world where we may ever expect to get pine lumber from. Other countries are out of the question, on account of distances and transportation rates. Other countries have hard wood, fancy wood—commonly called cabinet wood. If you will examine the bill you will find that in the bill applying to Canada, the only country that we may expect to buy fine lumber from, this paragraph is inserted:

Laths, 10 cents per 1,000 pieces.
Shingles, 30 cents per thousand.
Sawed boards, planks, deals, and other lumber, planed or finished on one side, 50 cents per thousand feet, board measure; planed or finished on one side and tongued and grooved, or planed or finished on two sides, 75 cents per thousand feet, board measure; planed or finished on three sides, or planed and finished on two sides and tongued and grooved, $1.12½ per thousand feet, board measure; planed and finished on four sides, $1.50 per thousand feet, board measure; and in estimating board measure under this schedule no deduction shall be made on board measure on account of planing, tonguing, and grooving.

Does that look like free lumber from Canada? No. Everybody knows that on account of transportation no lumber is shipped to any great distance without first planing it, at least on one side, to lessen the weight and cost of transportation. On shingles—about the only kind of lumber that is available for export in Canada and that might be imported here—the Dingley rate of 30 cents per thousand is restored. How about the fancy wood, or cabinet, in the so-called farmers' free-list bill, which applies to countries outside of Canada and those countries that have no pine to offer and who have this kind—the cabinet wood—to sell? We find this paragraph exempting from duty—

Timber, hewn, sided, or squared, round timber used for spars or in building wharves, shingles, laths, fencing posts, sawed boards, planks, deals, and other lumber, rough or dressed, except boards, planks, deals, and other lumber, of lignum-vitæ, lancewood, ebony, box, granadilla, mahogany, rosewood, satinwood, and all other cabinet woods.

Does that look like free cabinet wood? No. Especial pains was taken in exempting the kind of wood in countries where they have that kind of wood to offer and where it is possible to import it from, as, for instance, Old Mexico. I take it that no one will contend that the farmer can afford to make that kind of a deal.

What next? Oh, he is to get agricultural implements free. Well, there is nothing to that as the agricultural implements

enumerated in this bill, such as plows, tooth and disk harrows, harvesters, reapers, agricultural drills and planters, mowers, horserakes, cultivators, threshing machines, and cotton gins are found in paragraph 476 of the Payne-Aldrich Act, and paragraph 476 reads, plows, tooth and disk harrows, harvesters, reapers, agricultural drills and planters, mowers, horserakes, cultivators, threshing machines, and cotton gins. If imported from any country, dependency, Province, or colony which imposes no tax or duty on like articles imported from the United States they shall be free of duty, otherwise a 15 per cent duty is to be levied. Inasmuch as England and most of the countries manufacturing agricultural implements for export impose no duty on agricultural implements from the United States, agricultural implements are practically on the free list now and no benefit can be expected from this provision in the bill. Besides, the implement or so-called Harvester Trust have factories in nearly every country in the world. If labor can be had cheaper and the implement can be made cheaper in other countries the result would be that the trust would manufacture where the implements can be made for the least money, and American labor will be out and the prices will probably remain the same, as the trust absolutely controls prices and always takes all it can get.

But you say that we give him free shoes, harness, and saddlery and that he will be benefited thereby. I am somewhat in doubt about that, as the Leather Trust seems to be absolutely in control. In the Payne-Aldrich bill you put hides on the free list and the duty on shoes was reduced. Hides have gone lower, to about one-half what they were before; shoes have gone up from 10 to 50 cents per pair. Take, for instance, the Douglas shoe. That never sold for more than $3.50 and was so advertised. It is now being advertised and sold here in Washington for $4 a pair. With this experience I doubt very much the farmer's getting any benefit from free shoes.

But you say we give him free wire. I admit that there will be some advantage to him in free wire. I have advocated that in view of the poor quality of wire that is being made and sold there should be a reduction in duty on wire, and was much pleased when a material reduction was made on wire in the Payne-Aldrich bill. I believe that a further reduction should be made. I never could see why there should be a duty of $7 per ton more on wire than on wire nails, as the cost of manufacturing one is about the same as the other. For the sake of argument, we will say that the 10 per cent on shoes and $15 per ton on fence wire is a tax, and that if the duty is taken off the farmer will be benefited to that extent. What will it amount to? Suppose the farmer has a family, and buys 12 pairs of shoes a year at $2 a pair, or total of $24. The 10 per cent on $24 is $2.40. He buys a ton of barbed wire. That will go around his 160-acre farm three times. He now has a three-barbed-wire fence. If he purchases wire abroad and gets the quality of wire that was made 30 years ago and which is good for 30 years, he has paid a duty of $15, which is equal to 50 cents a year during the life of this barbed-wire fence. If you take off the duty, according to your contention, he will save $2.90 duty a year. Can the American farmer afford to have the prices on what he has to sell cut in two, which this bill is likely to do if it passes, and what the Wilson-Gorman bill did, for the saving of $2.90 a year? I for one am not willing to take the chances in sacrificing his market for the farm products included in this bill for $2.90, and especially when there is a question whether any material benefit will come to him whatever.

The American industries and labor are as much interested in this legislation as are the American farmers. It must be clear to everybody that if we are to continue this protective policy there must be protection all along the line.

If there is to be protection to American manufacturers, if one industry is entitled to protection, then every worthy and legitimate industry is entitled to protection. If we desert one, will that not result in the destruction of the whole system? Can we justly claim protection for one and not for the other? Will just and intelligent people stand for protection to one and not to the other? Can we expect the farmer to submit to cheap prices by reason of competition with cheap labor and cheap and productive soil of the world on what he has to sell and to be compelled to buy the products of the highest-paid labor in the world? Can he hope to succeed or even to exist? Certainly not. If the American farmer's purchasing power is impaired, then the market for the things which the American manufacturer has to sell is curtailed. When you curtail the market for the goods the manufacturer produces you curtail employment. When you curtail employment labor is without employment. When the manufacturer is without a market for his products at home he must quit producing or sell elsewhere. That means that he must sell in competition with the world. If the foreign manufacturer pays less for labor—and no one will deny that—then he can undersell the American manufacturer, who pays more for labor. The American manufacturer must either reduce the cost of production or he must close his factory. In order to manufacture cheaper he must have cheap labor. That means that American labor must accept less pay or quit work. That is exactly what happened in those dark and direful days under the Wilson-Gorman bill. That is what is happening today and what is going to happen if these free-trade bills pass. The anticipation of the passage of this free-trade measure, including reciprocity with Canada, has already left thousands of people out of employment.

You will find idle men in Washington. You will find men in every city in the land out of employment. The chairman of the Ways and Means Committee [Mr. UNDERWOOD], in his great speech of April 21, called attention to existing conditions when he said—I quote from his speech:

> I am in receipt of telegrams from my district to-day stating that the United States Steel Corporation have stopped work on some of the great plants in my district, have turned 3,000 men out of employment, and have given as their reason that I was supporting the Democratic tariff bills that are before the House. [Applause on the Democratic side.]

What was done in his district is practically what is being done in every industrial center. Only yesterday I was talking with a carpenter, who complained, saying that he was out of work and that employment could not be had; that he had been out of work for a week. I asked him what wages were being paid. He said $4 for eight hours' work. I said to him: "I take it that you are for reciprocity with Canada on account of the high cost of living." He said he had been, but he had changed his mind. I called his attention to the fact that the agitation and anticipation of the passage of these two measures had already reduced the price on farm products. Wheat had been reduced in price some 15 cents a bushel, and now for every four or five loaves of bread he buys he would be entitled to 1 cent reduction. But he said the bread is selling at the same price. Meats, as well, are selling at the same price. Steaks in the restaurants are still from 90 cents to $3. Eggs about 15 cents each. Here you have it, while the price of cattle has gone down 1 to 2 cents a pound, or from $10 to $30 per head, and eggs are selling in the country at about 13 cents a dozen. From this same gentleman's statement it would seem that the consumers are not sharing in this rapid reduction in prices; but, even if they were, here is a fair example.

One carpenter out of employment for a single week, at $4 a day, equals $24. That would pay for half a carcass of beef that would supply his family with beef for nearly a year. It would buy 500 loaves of bread, or 100 dozen eggs, or 100 pounds of butter at the average price the farmer has been getting. Of course, if you plunge into this free-trade proposition, meats, eggs, butter, in fact everything, will get cheaper, but where is the man who depends on employment to buy these things going to get his money to buy with, even at the low prices? I am afraid that the same conditions that prevailed during Cleveland's administration will follow. Again, we will find industrial stagnation all over this land, railroads in the hands of receivers, farmers without a market, labor without employment, privation and starvation on every hand. The spindles will cease to spin, the anvils will cease to ring, the employer will cease to employ, the wheels of industry will cease to move, and many a happy and well provided for home will face deprivation, inconvenience, and starvation, as was the case in our former free-trade experience and when everything was cheap. As you remember, wheat and wheat flour were cheap then, but the American people had to get along with 3.44 bushels per capita. Last year the price was high, but they were all employed at living wages and had money to buy with, and bought and consumed nearly 7 bushels per capita. Corn was cheap then, but they had to get along with 17.18 bushels per capita, and now 33 bushels per capita. Sixty-three pounds of sugar was quite sufficient then, but they are buying and consuming more than 80 pounds per capita now. Coffee, then 8 pounds, now 12. Cotton was cheap, but they had to get along with 16½ pounds; now 33 pounds per capita. And so on along the line.

Walking was the best the times afforded, and not very good walking at that. Now they ride in automobiles, and why you Democrats want to go back to walking I do not know. For some reason or other the American people never took kindly to walking, and especially barefooted, and possibly a year's walking now may satisfy them. Not you, but the 15,000,000 people who will be on hand to vote early and strong a year from next November. Gentlemen, with the conditions confronting us and the conditions that are sure to follow this proposed free-trade proposition, is it not well to go slow and to give the matter most

careful and thoughtful consideration before again going into this all-dangerous and ruinous policy?

For the benefit of those who may be in doubt and who really want to know how the farmers feel about this reciprocity pact and free-trade proposition, I will print in the RECORD extracts from Master Nahum J. Bachelder's letter in reply to Representative MCCALL's statement that opposition of farmers to Canadian reciprocity is not genuine:

Hon. SAMUEL W. MCCALL,
House of Representatives, Washington, D. C.

DEAR SIR: In your speech delivered in Congress on April 21 you have charged that the opposition of the farmers to the Canadian reciprocity bill does not represent the genuine sentiment of the farmers themselves, but that they have been induced to protest against that bill by other interests. In reply I wish to state that there is absolutely no ground for your assertion, and to assure you that the sentiment of the individual farmers in the 28 States in which the grange is organized is practically unanimous against the reciprocity scheme.

I receive regularly each week about 40 farm journals published in all sections of the country. Of these papers only one has failed to denounce reciprocity, and that one has not dared to favor it. Does this indicate that the opposition of the farmers is not genuine?

For your information I would state that so far as I have been able to find out there is not a single working farmer in the country who favors reciprocity, and if the farmers had a chance to vote on that proposition the vote against it would be in the ratio of 1,000 to 1.

* * * * * * *

You claim that no protection is needed against Canadian farm products because conditions in both countries are practically equal. Do you not know that the Canadian farmers have cheaper land, lower wages for farm labor, a newer soil requiring no fertilizers, and lower tariff taxes on the manufactured articles they buy? Is it not a fact that the average tariff rates on articles generally consumed by the farmers is from 20 to 25 per cent higher in this country than in Canada? Since this is the case, do you think it fair that the farm crops of Canada, produced at a lower cost than those of this country, should be allowed to compete freely with the products of our farms? If Massachusetts had a tariff rate of 45 per cent on manufactures, while New Hampshire's tariff was only 25 per cent, would you favor allowing the farm products of this State to be sold freely in competition with those of Massachusetts?

* * * * * * *

I learn by newspaper reports that as a member of the Committee on Ways and Means you voted against reporting House bill 4413, putting on the free list agricultural implements, cotton bagging, cotton ties, leather, boots and shoes, fence wire, meats, cereals, flour, bread, timber, lumber, sewing machines, salt, and other articles, giving as a reason for your action the fact that there had been no report by the Tariff Board on the cost of producing these articles in this and foreign countries.

In view of the fact that you voted for the Canadian reciprocity bill, which puts on the free list practically all the staple farm products, without any consideration by the Tariff Board of the question as to whether these articles could be produced more cheaply in Canada than in the United States, I would like to know whether you think there should be one rule governing tariff legislation for the farmers and another for the manufacturers. Do you think it fair that farm products should be made free without an investigation into the cost of production and that manufactured articles should be taxed, unless it can be shown that they can be produced as cheaply in this country as in other countries? And do you hold that the pledge to maintain the policy of protection, made in the Republican platform of 1908, was intended to apply only to manufacturing industries and that the farming industry is not entitled to protection?

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If you and your associates who call themselves protectionists, but vote for free trade for the farmer, have any doubt as to the real sentiment of the great majority of the farmers of all the New England, Northern, and Northwestern States on this question, you are destined to a rude awakening on the first Tuesday of November, 1912.

Yours, very truly,

N. J. BACHELDER,
Master National Grange.

Also extracts from an interview of N. J. Bachelder in the Evening Star, Washington, D. C.:

The free-list bill which the Democrats of the House propose to pass in an effort to reconcile the farmers to the Canadian reciprocity measure is not going to reconcile them.

That is the opinion of N. J. Bachelder, master of the National Grange and former governor of New Hampshire, expressed to-day. Mr. Bachelder is in town to learn what prospects there are for the passage of the reciprocity measure, and he has announced that the farmers are still against it, despite the "farmers' free list."

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NO BENEFIT IN NORTHWEST.

The farmers of the Northern and Northwestern States will receive little if any benefit from the free-list bill, which does not reduce the high tariff taxes on the articles generally purchased by them. The Democratic leaders in the House are greatly mistaken if they imagine that the farmers will consent to have free trade in everything they produce if a few unimportant manufactured articles are put on the free list. The position taken by the farmers is free trade for one, free trade for all, and they demand that in any tariff legislation the duties on all manufactures must be reduced to the same rate imposed on farm products.

If the Democrats wish to put the American farmers on an equality with the Canadian farmers, in so far as the cost of the articles they buy is concerned, they should reduce our tariff on manufactures to the rates fixed by the Canadian tariff.

WHAT THE SCHEDULES SHOW.

An examination of the tariff schedules of the two countries shows that the American farmer pays tariff taxes running from 20 to 35 per cent higher than are paid by the Canadian farmer. In spite of this fact President Taft and other advocates of reciprocity say that our farmers need no tariff against Canadian farm products because conditions are equal on both sides of the boundary line. How conditions can be equal when the Canadian farmer has cheaper land, cheaper farm labor, and lower cost of his manufactured articles no one has yet tried to explain, and until these facts can be explained away the farmers of this country are unalterably opposed to the one-sided, unjust proposition miscalled "reciprocity."

LEGISLATION OF SECTIONAL NATURE.

The sectional nature of the tariff legislation favored by the Democratic majority in the House is shown by the fact that while favoring Canadian reciprocity, which puts all the staple farm crops of the Northern States on the free list, the Democrats have not reduced in any degree the tariff rates on sugar, rice, oranges, pineapples, lemons, hemp, peanuts, and other agricultural products of the South.

I have no desire to raise the sectional issue in this matter, but it should be understood that if northern farm products are to be free there will be no protection for the southern farmer or fruit grower.

Also extracts from the hearings before the Ways and Means Committee:

STATEMENT OF AARON JONES, OF SOUTH BEND, IND., REPRESENTING THE NATIONAL GRANGE.

Mr. JONES. Mr. Chairman, I represent the National Grange, and will present this argument on its behalf. We feel that we would be very seriously damaged and wronged by the enactment of this bill.

Mr. MCCALL. Proceed.

Mr. JONES. I do not care to take much of your time, but just a little, so as to get what we want before you. Our organization is composed of the National Grange, with subordinate branches in 30 States. We wish to enter our emphatic protest against the proposed reciprocity agreement with Canada.

I have been a working farmer all my life; have been actively identified with the Grange, or Patrons of Husbandry, for more than 20 years, and was for 8 years master of the National Grange. I have gone among the farmers in every State of the Union, and have met thousands of them at various State and National Grange meetings. I am thoroughly familiar with their views on this and other public questions, and I am here to declare that the farmers of the country are unalterably opposed to the reciprocity bill which you are now considering, and that they believe it would inflict a serious and permanent injury to their industry.

The principle on which the protective policy has been defended during the past 20 years is that all classes and interests of the country should receive equal protection against the competition of foreign products. It was to carry out this principle that the duties on farm products were imposed by the McKinley law and reimposed by the Dingley and Payne Tariff Acts. Had it not been for the tariff on farm products the protective system would long ago have been abolished.

In view of these facts, which can not be denied, the manifest result of this bill, if it becomes law, will be to abolish all the protection now given the farmers and leave them open to the free competition of products which under existing conditions can be more cheaply grown in Canada than in this country. The advocates of reciprocity do not deny that Canadian farm products will to a large extent displace the produce of our farms; on the contrary, they try to justify the measure by claiming that it will reduce the cost of those products to the consumer. As against this claim, I wish to submit certain facts set forth in the Annual Report of the Secretary of Agriculture for 1910, pages 19–26. As the result of a careful investigation of the increase of prices of farm products in their transfer to the consumer, Secretary Wilson shows that the difference between the price paid the farmer and the cost to the consumer is in many cases from 40 to 50 per cent. For instance, it was found that the poultry grower received only 55.1 per cent of the price paid by the consumer; that the dairyman receives a scant 50 per cent of the price paid for milk; the apple grower 55.6 per cent; that beef cost the consumer 38 per cent more than the price paid the great slaughtering houses; and other farm produce from 41 to 50 per cent over the original cost.

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No; it is not the tariff on farm products that is responsible for the high cost of food, but the excessive freight charges of the railways, and the exorbitant profits of the commission houses, wholesale dealers, and retailers, through whose hands farm products must pass to reach the consumer.

I have submitted these facts for the purpose of showing the serious injury to the farming interests that would follow the enactment of this bill. What compensation does this measure offer the farmers for the loss of the very moderate protection now given them? Does it materially reduce the burden of high protective duties which the farmer is compelled to pay on all the manufactured goods he uses? Not at all. The pretended reduction of duties on Canadian manufactured goods is a fraud and a sham. No duty is removed or reduced on Canadian manufactures that will permit of their general importation for use by our farmers.

An attempt has been made to fool the farmer by removing the duty from steel wire and wire fencing. But Canada makes practically no wire and only sold to this country last year about 150,000 pounds, while we exported to Canada more than 9,000,000 pounds. The removal of this duty will not reduce the cost of fence wire in the slightest degree, and the same is true of the other manufactured articles in the reciprocity schedule. Canada is not a manufacturing country in the same sense that the United States, Great Britain, and Germany are, and the few manufacturers affected by this bill will not be made cheaper to our people.

And I want to say right here that I have been a lifelong Republican and have supported, from Lincoln down, the policies of that party, believing in protection, and I am wholly unable to comprehend the amazing action of those higher in authority who have been responsible for this reciprocal agreement. Is it possible that they believe that 6,000,000 farmers will tamely submit to free trade in farm products and high tariff for manufactures?

If so, I wish to state here and now that we have come to the parting of the ways. The farmers believe in real reciprocity; that is, for an equal reduction in the tariff on manufactures, and at the same time that the duties on farm products are reduced. They favor an honest revision of the tariff, but they do not believe in revising the tariff on farm products out of existence, while leaving the exorbitant taxes on manufactures untouched.

* * * If this bill is intended as an honest measure to reduce the cost of living in the interest of the consumer, why does it impose a tax of 50 cents per barrel on flour, while putting wheat on the free list? Why are cattle, sheep, and swine on the free list, while meats, fresh and cured, are taxed 1½ cents per pound? Are not the farmers as much

entitled to protection as the millers or the great meat packers of Chicago?

Mr. RANDELL of Texas. Is not that in favor of the meat packers, to have cattle on the free list, and meats not on the free list?

Mr. JONES. It has been in their favor.

Mr. RANDELL of Texas. Is not that in their favor?

Mr. JONES. Certainly; and that is why it is put in here.

* * * * * * *

Now, gentlemen, I trust that there will be no misunderstanding as to the position of the farmers in this matter. They believe that they are entitled to exactly the same measure of protection as the manufacturers. We can not get it on what we export, but we can keep the other fellows out. They are not now receiving equal protection, and the pending measure proposes to make the discrimination against them still more unjust by establishing, to all intents and purposes, free trade in farm products, while making no reduction of duties on manufactures that will decrease the cost to the farmer.

Mr. RANDELL of Texas. Your idea is to keep the farmer's products out, so that they will not compete with you?

Mr. JONES. How is that?

Mr. RANDELL of Texas. It is your idea to keep the farm products from Canada from coming in here so that they will not compete with you?

Mr. JONES. No, sir; let them pay for our market. They live in a country where they have cheaper lands, cheaper taxes, and less cost for labor. We are supporting an entirely different condition of things, and let them pay for our market. That is what they ought to do; the same as every foreigner; if he wants to come in, let him throw out the Stars and Stripes, and let them float over that country, and then he can come in, and we are perfectly willing to let him.

Against this proposition we earnestly protest, and we insist that there shall be no free trade for the farmers and high tariff for the manufacturers, but that if farm products go on the free list, manufactured articles must also be made free, and they will, inside of a very short time.

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Minneapolis cash wheat quotations of Nos. 1 and 2 northern (track) compared with Winnipeg quotations of No. 1 northern "in store," Fort William or Port Arthur terminal elevators, and Liverpool quotations of No. 2 northern Manitoba.

Dates.	Wednesday quotations. Minneapolis. No. 1 northern.	Wednesday quotations. Minneapolis. No. 2 northern.	Wednesday quotations. Winnipeg. No. 1 northern.	Tuesday quotations. Liverpool—No. 2 northern Manitoba.
1909.	*Cts. per bu.*	*Cts. per bu.*	*Cts. per bu.*	*Cts. per bu.*
Sept. 1	98½	96 - 96½	97½	125½
8	97½- 97⅞	95½- 95⅞	97⅞	120
15	99⅛-100⅜	97⅞- 98⅛	98⅜	130½
22	100⅛-100⅜	98⅛- 98⅜	98	129½
29	101¼	99¼	94⅜	130
Oct. 6	101	99	96¼	130½
13	103⅜	101⅜	98¼	131½
20	104⅛-104⅜	102⅛-102⅜	97	131
27	105⅛-105⅜	103⅛-103⅜	97⅜	131
Nov. 3	102 -102⅛	100 -100⅛	95⅜	115⅞
10	104⅛-104⅜	102⅛-102⅜	97⅛	115⅞
17	105⅞-106⅛	103⅜-104⅛	98⅜	.....
24	106⅛-107	104⅛-105	99½	117⅜
Dec. 1	105⅞-106	103⅞-104	94⅜	118⅜
8	109⅛-110	107⅛-108	96⅛	118⅜
15	112 -112⅛	110 -110⅛	99⅜	119⅛
22	111⅜-112⅛	109⅜-110⅛	100⅛	120⅜
29	111⅜-112⅛	109⅛-110⅜	100⅛	119⅜
1910.				
Jan. 5	114 -115	112 -113	103⅞	122⅜
12	114⅜-115⅜	112⅜-113⅜	103⅛	122⅛
19	110⅜-111⅜	108⅜-109⅜	101⅛	120⅛
26	114 -114⅛	112 -112⅛	103⅛	120⅛
Feb. 2	111⅛	109⅛	103	121⅜
9	112	109	102⅛	119⅛
16	115⅜	113⅜	103⅛	120⅛
23	113⅞	111⅛	102⅛	119⅛
Mar. 2	114⅛	112⅛	103⅛	119⅛
9	114⅛	112⅛	104	118⅛
16	114⅞	112⅞	104⅛	120⅛
23	116⅞	114⅞	105⅞	120⅜
30	115⅞	113⅜	105⅛	121⅛
Apr. 6	110⅛	108⅛	104	121⅜
13	111	109	103⅛	119⅜
20	107⅛	105⅛	100⅜	117⅛
27	109⅛	107⅛	99⅜	117⅛
May 4	111	109	99⅜	112⅛
11	112⅛	110⅛	98⅛	112⅛
18	110	108	96⅛	109⅛
25	109⅜	107⅜	92⅜	104⅛
June 1	106⅛	104⅛	88⅛	97⅜
8	107⅜	105⅜	90	102⅜
15	106⅛	104⅛	89⅜	99⅛
22	111⅛	109⅛	93⅛	102⅜
29	115⅛	113⅛	100⅛	107⅛
July 6	118	116	106	107⅛
13	118	116	109⅜	110⅛
20	126⅜	124⅜	115⅜	119⅜
27	124⅜	122⅜	110⅛	121⅜
Aug. 3	117⅛	114⅜	106	117⅜
10	115⅛	110	108⅛	117⅛
17	113	109⅛	110	121⅜
24	110⅛	107⅛	107⅛	121⅛
31	112⅜	110⅜	108⅛	120⅞

Liverpool quotations are for the day preceding the date specified in the statement.

Weekly (Tuesday) quotations of wheat in the Minneapolis, Winnipeg, and Liverpool markets, Sept. 6, 1910, to Apr. 18, 1911.

[Data taken from Commercial West, published at Minneapolis, Minn., and Broomhall's Corn Trade News, published at Liverpool.]

Dates.	Minneapolis. No. 1 northern.	Minneapolis. No. 2 northern.	Winnipeg. No. 1 northern.	Winnipeg. No. 2 northern.	Liverpool. No. 2 northern Manitoba.
1910.					
Sept. 6	$1.12⅜	$1.10⅞	$1.05	$1.03⅜	$1.20⅜
13	1.11⅛	1.09⅛	1.02½	1.01	1.18⅜
20	1.11½	1.09	1.01	.99	1.18⅜
27	1.10½	1.08	.99	.94½	1.16½
Oct. 4	1.10⅜	1.08⅛	.98⅜	.94½	1.15⅞
11	1.09⅛	1.07⅛	.97	.93½	1.16⅜
18	1.06	1.03	.95½	.92½	1.16½
25	1.04½	1.02½	.94½	.91¼	1.15⅞ 1.08⅛
Nov. 1	1.02	1.00	.89½	.86½	[1] 1.05½
8	[2] 1.02	[2] 1.00	.90	.87	1.03⅛
15	1.07	1.05½	.94	.91	1.03⅜
22	1.05⅛	1.04⅛	.94⅛	.91⅛	1.08
29	1.03	1.01½	.90	.87	1.05½
Dec. 6	1.04½	1.02⅜	.91½	.88½	1.06½
13	1.02⅜	1.01⅛	.89⅛	.86½	1.05⅛
20	1.02½	1.01	.90	.87½	1.04½
27	1.02⅛	1.00⅛	.89⅛	.86½	1.05½
1911.					
Jan. 3	1.06⅜	1.04⅞	.92½	.89½	1.09½
10	1.08⅛	1.06⅛	.96	.92	1.09⅜
17	1.08⅛	1.06⅛	.95½	.92½	1.10⅛
24	1.05⅜	1.02⅜	.94	.91	1.11⅛
31	1.04⅛	1.02⅛	.92	.89	1.11⅛
Feb. 7	1.01	.99	.92	.89	1.11
14	.97½	.95½	.90⅜	.88½	1.11
21	.98⅜	.96⅜	.90½	.87½	1.09⅜
28	.96⅜	.94⅜	.88	.85½	1.08⅜
Mar. 7	.99½	.97½	.88⅜	.86	1.08
14	.99½	.97½	.90	.87½	1.07⅛
21	.98½	.96½	.90½	.87⅜	1.07⅛
28	.95⅛	.93⅛	.89⅜	.87	1.07⅛
Apr. 4	.93	.91	.88	.85	1.05⅜
11	.98⅜	.96⅞	.89¾	.87	1.07
18	.98	.96	.90½	.88	.....

[1] Quotation for new crop.
[2] Quotation is for November 9, November 8 being a holiday in the United States.

Quotations of flaxseed at the Minneapolis, Duluth, and Winnipeg markets from Sept. 26, 1910, to Jan. 23, 1911, as reported by Commercial West.

[Price per bushel.]

Dates.	Minneapolis.	Duluth.	Winnipeg.
1910.			
Sept. 26	$2.70	$2.78	$2.48
Oct. 3	2.54	2.53	2.15
10	2.66½	2.65½	[2] 2.44
17	2.64	2.64	2.40
24	2.57½	2.61	2.39
31	2.60½	2.61½	[3] 2.43
Nov. 7	2.63	2.64	2.45
14	2.70	2.74	2.52
21	2.59½	2.64½	[3] 2.45 / [4] 2.37
28	2.54	2.53	2.26
Dec. 5	2.55	2.54	2.25
12	.....	.....	.....
19	.....	.....	.....
27	2.42	2.37	2.07
1911.			
Jan. 3	2.48⅞	2.47⅛	2.22
9	2.53	2.53	2.26
16	[5] 2.61	[5] 2.61	2.42
23	2.63½	2.63½	2.25

[1] October 11 quotation.
[2] November 1 quotation.
[3] November bid.
[4] December bid.
[5] January delivery.

Mr. Chairman, I want to avail myself of this opportunity to call attention to one of the many branches of the work carried on in the Department of Agriculture and the various experiment stations and agricultural colleges in this country. While I have nothing but words of praise for all the work carried on in the Department of Agriculture and agricultural colleges, I want to call especial attention to one branch, the farmers' cooperative demonstration work in the Department of Agriculture and the agricultural extension work in the States. Heretofore the Department of Agriculture has largely confined its work along these lines to the South, under the instruction and management of the late Dr. S. A. Knapp, and that with marvelous accomplishment in promoting agriculture in general, but more especially in encouraging corn growing.

Through the organization of boys' corn clubs; by offering special inducements to young men in awarding diplomas; by

offering prizes, such as a trip to Washington and premiums of various kinds besides; by giving the young man the benefit of supervision, of instruction, and demonstrations directed by Dr. Knapp, a man of many years of experience and with practical and scientific knowledge of farming; by teaching the young man not only how to grow the greatest number of bushels per acre, but how to grow it most economically; how, when, and where to select the seed; how to plow and prepare the ground; how to fertilize and cultivate the soil; when and how to plant the corn; in short, by giving the young man the benefit of Dr. Knapp's experience and great knowledge of farming, and teaching the boys how to intelligently and economically apply labor, has brought about marvelous results in corn growing; yes, in one young man growing as high as 228 bushels of corn on a single acre of land. Like every great undertaking this work met with opposition as well as with encouragement.

Dr. Knapp's experience and accomplishments in this work are told in his letter to the gentleman from Louisiana [Mr. RANSDELL], which is printed in the CONGRESSIONAL RECORD. The gentleman from Louisiana [Mr. RANSDELL] in his very interesting speech of February 2, 1911, told of experiences in the South, and with the permission of the House I will print, in part, the gentleman's speech:

Dr. Knapp realized that it was almost impossible to teach old men how to raise corn. They knew much better than he or anyone else. They had been raising corn, in a way, all their lives. So he wisely conceived the plan of organizing boys' corn clubs. It began in a small way five years ago. One year ago there were 12,000 boys in the South raising corn under the supervision of demonstrators directed by Dr. Knapp. Four boys came to Washington in December, 1910, and were given diplomas of agriculture by Secretary Wilson for great success in corn raising. It was a unique event, and, so far as I can learn, the first of its kind in our national history.

Last year 46,225 of Dr. Knapp's boys, in nine Southern States, cultivated special crops of corn and had wonderfully beneficial and successful results. Eleven of them visited Washington in December and received diplomas of agriculture from Secretary Wilson for their great yields of corn. In determining the prize winner in the various States, the yield, the manner of cultivating the soil, the profit on the crop, and the best written description of the crop were all considered. The Texas boy, who won the coveted prize, raised a little over 85 bushels, while the South Carolina boy produced 228¾ bushels on a single acre.

* * * * * * *

I beg your pardon. It was the South Carolina boy who produced 228¾ bushels to the acre, and his corn cost him 43 cents a bushel. So it is not always the biggest yield that makes the most profit. A striking illustration of this is furnished by the Louisiana boy, Stephen G. Henry, of Melrose, Natchitoches Parish, who raised last year 139 bushels on 1 acre, at a cost of 13.6 cents per bushel, and received the first prize—a fine automobile—at the National Corn Show, now being held at Columbus, Ohio, for the best acre of corn produced by any boy in the Union. While his yield was not so large as others, being only 139 bushels, at 13.6 cents, his South Carolina competitor made 228¾ bushels, but it cost 43 cents a bushel; hence the profit was much greater on the Louisiana crop.

To show that these were not isolated cases, gentlemen, Dr. Knapp furnished me with a list of the names and addresses of 100 boys who each cultivated 1 acre of land in corn, and the average yield per acre was 133.7 bushels. Think of it! One hundred and thirty-three and seven-tenths bushels per acre were raised by 100 boys scattered throughout nine Southern States, or 13,370 bushels of corn on 100 acres. (See Appendix for names and addresses of these boys.)

The world has never seen anything equal to that, and in the boasted corn States of Indiana, Illinois, Iowa, and Ohio I doubt if its equal can be produced. I am not decrying the corn industry in those States, but I am trying to have the Members of this House understand that the corn belt of this country is moving southward and that we can raise as much or more corn there than anywhere else on earth.

Now, what are the cold facts in regard to the total production of corn last year? Three billion one hundred and twenty-five million bushels were raised in the Union; in the South, 1,285,000,000 bushels, or 41 per cent of the total production in this country; $627,000,000 worth of corn in the South in one year—a section which a few years ago was not considered well suited to corn.

Now, in all seriousness, gentlemen, this is a matter of great national importance. One of the greatest problems we have before our country to-day is the rapid growth of cities and the tendency of people to leave the farm and move into the towns and cities. That is true not only in this country, but it is true in the Old World. The census statistics for the last 30 years show a very rapid growth of cities in France, Germany, and England, and an actual decrease of population in the rural districts of those countries. The census statistics of our own land show that the cities and towns have grown about three times as fast as the country districts.

The statistics also show that farm property in many portions of the country has diminished very considerably in value in the last 25 years. We must do something to make the boys and girls satisfied on the farm, and that can not better be done than by showing them how to make life on the farm more profitable, by showing them how to produce more out of an acre of land than ever they produced before, and how to earn wages not only equal to but actually better than the average wage of the same man or woman in almost any kind of work in cities or towns. See what this wonderful corn production means. Here these 100 boys have averaged 133 bushels per acre. The average corn production of the country was 27.4 bushels per acre in 1910. In many of the Southern States, under our faulty and indifferent methods of cultivation, it has not averaged 20 bushels per acre; but let us take a general average of 27.4 bushels, and these boys have made nearly five times as much as the general average. Certainly if boys can do that, grown men, with all the advantages of their superior years, ought to do much better, and I know of no work that is destined to be more beneficial to this Republic than this intelligent, far-reaching work of educating the boys of the Southland to raise more corn per acre. Dr. Knapp tells me that he expects to have at least 100,000 boys in these corn clubs this year.

Remember, there were 12,000 in 1909, an increase to 46,225 last year, and it is not unreasonable to expect 100,000 this year. Prof. V. L. Roy, of Louisiana, has carried on the work in my State with wonderful success. He had 6,696 boys in his corn clubs last year, and under his splendid direction one of them captured the highest prize in the Republic.

I was told a few days ago that within 20 miles of this Capital City, on the line of the Pennsylvania Railroad, in Maryland, an actual transaction in real estate of about 1,300 acres occurred last year where the price was $9 per acre. Now, why these ridiculously low prices? It is because the people have moved into the towns; because they do not understand intelligent agriculture; because they imagine that a clerk at $10 or $15 a week, subject to his employer's whim and caprice, is better off than a farmer living on his own soil, taking orders from no man, free and independent, and actually earning higher wages than city people who do harder work. When we show these people that they can raise such crops of corn and everything that goes along with corn as these 46,225 southern boys have been doing, there is going to be a hegira from the city to the country, and great will be the national benefit thereof.

Hopping, of Rogers, who, without the aid of a mule or a horse, except to have his land plowed, actually raised 50 bushels on an acre with a plow manufactured by his own hands and pulled by a goat trained by him. [Applause.] If there be any doubting Thomas in this audience, all doubts of the truth of this statement will disappear when I show the picture of the boy and the goat, which picture I would like to have you come and look at. It is positive proof that the boy did it, because here is his picture, and the goat, too. [Laughter and applause.]

Dr. Knapp tells pathetic stories of how hard it is to get the old father to help the boy. He tells of one boy who was very anxious to raise some corn, but had no ground. So his father said, "Well, you can have an acre over there on the hillside if you will clear the stumps and logs off." The little fellow worked hard and cleared the land, and then his unkind father took it away from him. The little chap was not discouraged. When the farm demonstrator came around the boy appealed to him, and he in turn appealed to the father, who said, "Well, I will let him have another acre over there on the same hillside, provided he clears off the logs and stumps." He cleared them, worked as vigorously as he could, and produced 85 bushels of corn on that acre, while the old man, who cultivated by the old method on the acre that the boy had first cleared, made only 18 bushels. [Laughter and applause.]

That was a practical demonstration, and there are a great many similar ones throughout the South. I wish that this great work could be carried on everywhere in the Union—not only in the South, but everywhere.

You will see from the gentleman's statement that it required skill, energy, diplomacy, and encouragement to interest the older as well as the younger men. In every community there are generally those who prefer to stand still rather than to go forward; but through the persistent and efficient effort of Dr. Knapp the work has met with most wonderful success.

With the possibility of free trade with Canada, which, with her many advantages over ours, will practically make it impossible to grow with profit wheat, oats, barley, and cereals such as are grown in Canada on our high-priced farms, as with free trade with Canada in farm products prices on our products must go down to correspond with the prices paid in Canada plus the difference in transportation not only in the kinds of cereals produced in Canada, but others as well. When the price of wheat and oats goes down the price of corn is affected thereby. If the prices are to be lowered, the States with high-priced labor and land will have to give attention to improved methods in farming and how to produce farm products cheaper, and especially those products not produced in Canada and which are the least affected by the Canadian free-trade treaty.

Iowa, Illinois, Missouri, and States in the corn belt will have to give special attention to growing corn. In order to grow corn cheaper they will have to grow more bushels to the acre. In so doing the farmer must study the soil, how to exterminate the weeds, how to prepare and cultivate the soil, what implements to use, how to select seed, the rotation of crops, how to drain the land, the value of leguminous plants, how to fertilize; in short, he must intelligently and economically apply labor.

The average yield per acre in corn in 1872 in the United States was 30.08, the highest average in any year in the history of the country. It dropped to 16.09 in 1901, and went up to 25.09 bushels in 1907. If the present yield of corn is on an average less than 30 bushels per acre, and if by improved methods in farming a boy can grow 225 bushels of corn on 1 acre of land in Mississippi, 168 bushels in Virginia, 139 bushels in Louisiana, and 228¾ bushels in South Carolina, or if 100 boys scattered throughout 9 States in the South can each plant and cultivate 1 acre of land in corn and grow on an average 133.07 bushels, what can the boy do in the great corn-growing States? When you stop to consider that the fields of the United Kingdom, which have been tilled for 1,000 years, yield an average of 32 bushels of wheat per acre, and Germany producing an

average of 27.06 bushels of wheat per acre, the average in the Netherlands is 34.18 per acre; ours is only 14 bushels. The Netherlands produce on an average 53.01 bushels of oats per acre, while we produced only 23.07 bushels of oats in 1907, or an average of less than 30 bushels per acre. For the preceding 10 years the Netherlands produced 232 bushels of potatoes per acre, we only 95 bushels per acre.

Is not the encouragement of better farming worthy of consideration? Why this difference in yield? It is not that we have not the soil, climate, or that the yield can not be increased. Everybody knows that our soil is as productive, and even more so, than the soil of the countries mentioned. Everybody knows that our soil can be made to produce as much if not more than the soil of the countries mentioned. Everybody knows that our people are as industrious, and even more, than anybody else. Their large yield is of course due to intensified farming. Our small yield is due to bad farming, exhaustion, and skimming the cream of the land. Conditions are different. Our population is about 24 per square mile. The population of the countries referred to ranges from 167 to 445 people to the square mile. Our country is sparsely settled; theirs are densely populated. Here labor is high, scarce, and hard to get. There, labor is cheap, plenty, and easy to get. Their products sell high. They have high-priced lands and cheap labor. They can get and can afford to hire labor and better farm their lands. They make money by so doing. We have had high-priced labor and cheap lands, and it would not have paid us to employ the high-priced labor for intensified farming on cheap lands at the prices the American farmer has been getting for farm products. Consequently little attention has been given to intensified farming. Now, things are quite different. Now, prices of farm products have advanced; prices on farm lands have advanced, and much thought and attention is being given to new and improved methods of farming. Farms can now be farmed at a living profit, hence the farm has been given more attention. But just as the American farmer gets a fair start on the highway to prosperity in comes this free-trade proposition, which means not only cheap farms, cheap farm products, and which means impairing the purchasing power of the farmer, which means that he must buy less of what the manufacturer has to sell, which means the closing of factories and mills all over this land, and which will result in cheap and plentiful labor on the farm as well as in the factories and mills. We must now compete with the world. If we are to compete we must produce as cheaply as others do. That means not only cheap labor, but increase in production per acre. If so, as before stated, the American farmer must give more attention to new and improved methods in farming, and if so, is not the work carried on in this great department worthy of consideration?

One thing is certain, if you expect to improve farming so as to increase the yield of corn and other crops, we must look after and encourage the American boy, as well as to look after the soil and improved methods of farming. The American boy to-day is not contented to live on the farm and to enjoy independence and the luxuries this life affords. He is not contented with farm life, which is so conducive to good health and happiness, where he may enjoy a greater degree of blessings, true happiness, independence, advantages, and general contentment than they do or can do in the cities, where difficulties and temptations so hard to overcome are encountered.

If you expect to advance agriculture, an industry that has furnished from 60 to 80 per cent of our exports and which has largely made this country what it is, we must give more attention to the American boy, in order that he may take a greater interest in the farm and enjoy the blessings, advantages, happiness, comforts, and conveniences it affords, and that he may contribute to this Nation's growth and greatness, dignity, stability, and prosperity, as have his forefathers, those who have transformed these forests, prairies, and deserts into a garden of roses and into these productive fields. You must make the farm more attractive. Teach him that work is not a hardship or a curse, but to the contrary; that it is a blessing provided by an all-wise Providence for man's development, happiness, and prosperity. We must teach him the beauty of nature as well as that of art. Teach him to work as well as to read. Teach him farming as well as law. Teach him that the tilling of the soil is as honorable and dignified as any other occupation, profession, or trade. By all means teach him to work, to become self-reliant and self-supporting; that of all the contemptible things idleness is the worst. Teach him that there is pleasure, enjoyment, satisfaction, honor, and dignity in toil, be it by the head or hand, and that all labor that is honest is honorable and dignified, but that of all employment which requires manual labor farm life is the most independent and conducive to good health. Teach him that toil is the price of success; if a young man's ambition or desire is to own a good farm and a comfortable home, that there is nothing to hinder him from having it in this land of plenty, under this grand and glorious Government, with its splendid and magnificent institutions, which Washington and his band of patriots so wisely provided for.

If the farm and the home is worth a young man's effort, is not the work done along these lines to educate and to encourage the young man worthy of commendation? Is not the subject worthy of consideration, especially in the corn-belt States?

In Iowa, where corn is king, to me it seems an all-important matter, and when Prof. P. G. Holden, superintendent of agricultural extension, Iowa State College, asked me to pledge $100, or as much thereof as may be necessary, to pay the expense of a trip to Washington for the boy who grows the best acre of corn in my district, I cheerfully complied with his suggestion, believing that this small encouragement to the young men of the district will result in developing a greater interest among the boys, as well as the older ones, in more intelligent and profitable tilling of the soil. Under the instruction and management of Prof. Holden, one so experienced and eminently equipped to superintend this important work, coupled with that industry and intelligence so characteristic of the Iowa boy, applied to Iowa's rich and productive soil, there can be no question but that it will bring good results.

For the benefit of those who may be interested in this work carried on in the Department of Agriculture, the organization of the boys' corn clubs, the farmers' cooperative demonstration work, and the agricultural extension work in the State of Iowa, the conditions under which the work is to be carried forth, and the prizes offered, I will append to my remarks Dr. Knapp's letter to the gentleman from Louisiana [Mr. RANSDELL] and Prof. Holden's notice of contest sent to all papers in the district, for the information of those who may be interested in the contest:

APPENDIX.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF PLANT INDUSTRY,
Washington, D. C., January 28, 1911.

MY DEAR MR. RANSDELL: Inclosed find some corn statistics that will do you good.

Here is a list of 100 boys that averaged 133.7 bushels of corn per acre. This beats the world's record. They produced better than 13,000 bushels of corn on 100 acres of land.

Will send more as we get it.

Very truly, yours,

S. A. KNAPP,
Special Agent in Charge.

Hon. JOS. E. RANSDELL,
House of Representatives.

The following 100 boys in the corn clubs in the Southern States, under the farmers' cooperative demonstration work of the United States Department of Agriculture, made an average of 133.7 bushels of corn per acre. This is not all of the boys who made large yields. Reports are coming in daily showing yields above 100 bushels.

	Bushels.
Leslie Anderson, Brookhaven, Miss	225
Clark Batson, Reciuse, Miss	127
Bennie Beesen, Monticello, Miss	212.1
Fred Black, Ackerman, Miss	119
John W. Bowen, Grenada, Miss	137
Thomas Bowen, Grenada, Miss	128
W. D. Brister, West, Miss	115
Davis Broadway, Silver, S. C	115
Furman Broadway, Silver, S. C	165
Willie Broom, Lexington, Miss	135
Leonard H. Brown, Mount Olive, N. C	145.6
Roland Cannon, Winterville, N. C	130.3
Mortimer Chapman, Rocky Mount, Va	123.3
E. Henry Corey, Ayden, N. C	124.1
Thomas C. Creasy, Mount Airy, Va	128
Kennie Divine, Sharon, Miss	217
George F. Dunley, Okisko, N. C	116.8
Carlton Fitch, Lake City, S. C	112.5
Willie Fitch, Lake City, S. C	133
Leon Ford, Chunebrant, La	129
Lloyd Ford, Nichols, S. C	130.4
Walter Fulmer, Johnston, S. C	144
Carl Gandy, Homer, La	118.8
Joe Garner, Magee, Miss	126.2
Miles Gaskin, Gallvants, S. C	128.5
Landry Gauthier, Cottonport, La	150
Ernest Gilmore, Santuc, S. C	113.4
D. A. Grant, Gattman, Miss	115.5
Oscar Hansen, Clemmons, N. C	126.6
Hughey Harden, Banks, Ala	120
William Harper, Newton, Miss	118
Joe Harrelson, Nichols, S. C	115.5
J. J. Hemphill, Embry, Miss	122.6
Stephen G. Henry, Melrose, La	139.8
Kendall Hickerson, Remington, Va	131.6
J. C. Hooten, jr., Grifton, N. C	125.1
Leo Hyams, Campti, La	138
Hubert Jones, Kinsboro, N. C	113.7
Wilson R. Jones, Baldock, S. C	167

	Bushels.
Willie Johnson, Greer, S. C	113
Crawford Kirkland, Winnsboro, La	137
B. R. Lewis, Pikeville, N. C	145.4
Leo Long, Ackerman, Miss	140
Jack McCullough, Benson, S. C	116
Brewer Mabry, Carrollton, Miss	133.4
George Martin, Campbellsville, Miss	160.4
Leo Martin, Campbellsville, Miss	121.4
Rufus W. Maxwell, Vaiden, Miss	138
Jewel Mayfield, Mount Olive, Miss	120
McLemore Melton, Coushatta, La	118.7
Herbert Mitchell, Whitmell, Va	125.5
Plato Mitchell, Alexander, N. C	118
Jerry H. Moore, Winona, S. C	228.7
W. S. Moseley, Springbank, Va	119
Donnie Newsome, La Grange, N. C	127.1
Everett Norden, Angier, N. C	131.2
L. M. Norton, Nichols, S. C	117
Archie Odom, Bennettsville, S. C	177.7
Douglas Odom, Bennettsville, S. C	132.6
Maurice Olgers, Sutherland, Va	167.8
William A. Owen, Oakville, Va	124.5
Charlie Parker, Woodland, N. C	133
Raleigh Parker, Woodland, N. C	123
Earle Penn, Goode, Va	120
D. R. Peregoy, Madison Run, Va	123.5
Charles F. Phillips, Thomasville, N. C	144.1
Foster Power, Ackerman, Miss	122.2
Arthur Rains, Petersburg, Va	130
Lloyd Rosser, Pamplin City, Va	125
Errol Saucier, Long Beach, Miss	158
John W. Seagle, Roanoke, Va	120.5
L. A. Shaw, jr., Linville, La	142.1
James Simington, Attica, Ark	122
Ernest Sims, Eupora, Miss	135.6
Jim Sims, Anding, Miss	141.1
Edwin Smith, Calhoun, La	115.6
Ira Smith, Silver, Ark	119
Norman Smith, Covington, Tenn	125.5
J. J. Snow, jr., Rome, S. C	135.5
D. Kemper Stanton, jr., Bennettsville, S. C	130
W. Ernest Starnes, Hickory, N. C	146.3
Herbert Stephenson, Willow Springs, N. C	137.5
Perry Stevins, Grenada, Miss	123
Harry L. Strathan, Kakamo, Miss	114.2
Marvin Thomas, Madison Run, Va	142.5
Troupe Toadvine, Dayline, La	158.4
B. B. Todd, Walthall, Miss	121
B. O. Todd, Walthall, Miss	135
James H. Tulloh, Alton, Va	129.6
Thomas Turner, Appomattox, Va	114.5
Marion Usher, Bennettsville, S. C	130
Leary Ventress, Louisville, Ky	144
Kirlin Walker, Arizona, La	120.1
Vernon Ward, Satartia, Miss	124
Vernon Ward, Eden, Miss	135.6
Luther G. Wertz, Salem, Va	113.1
Jandon Whitehead, Bexar, Miss	130
Monroe Williams, Misterton, Miss	124
Willie Williams, Decatur, Miss	146.6
Carter Woodard, Long Beach, Miss	130

VISIT OF THE CORN CLUB BOYS IN WASHINGTON.

The visit to Washington this week of the prize-winning boys from 11 Southern States is the crowning event of the year's work of 46,225 boys. These boys are members of the corn clubs under the farmers' cooperative demonstration work of the United States Department of Agriculture.

About a year ago all of the members of the corn clubs agreed to work 1 acre of corn in accordance with the instructions of the department. Merchants, bankers, and other public-spirited citizens offered more than $40,000 worth of prizes, consisting of cash, farm implements, trips, ponies, pigs, bicycles, watches, and many other things calculated to gladden the adolescent heart. Government agents, public-school officers and teachers cooperated in the organization and instruction of clubs in nearly 600 counties. The names and addresses of the members of the clubs were filed with the United States Department of Agriculture. Circulars of instruction, prepared by Dr. S. A. Knapp, in charge of the demonstration work, were mailed to all of the boys at various times during the year. When the boys studied seed selection the whole county got interested. When they took up the preparation of the soil there was a general movement for better preparation. The prize winners, now in Washington, plowed their acres from 8 to 16 inches deep and thoroughly pulverized their seed beds. When the subject of fertilization came up the general knowledge about nitrogen, potash, and phosphorus was increased, leaves and wood mold were sought to increase humus, and stable and poultry houses were cleaned out for the benefit of the prize acre. Shallow and frequent cultivation was kept up during the spring and summer, because the boys had learned that the roots of the corn must not be broken, and that the corn must have a good dust mulch in order to conserve moisture.

According to the regulations making awards of prizes, the following points were considered: Yield, cost per bushel, best 10 ears, and written history of crop. Not all of the boys who won prizes made the largest yields in their States. The economical side must be considered. The farming must be profitable. A record must be kept and a good exhibit made at the county corn show or fair.

A year ago Secretary Wilson gave diplomas of merit to four boys who came to Washington. At that time there were 12,000 members of the clubs. This year business organizations and individual citizens gave prize trips in 11 Southern States. Governors and superintendents of education are also giving diplomas of honor to all boys who produced 75 bushels per acre, at a reasonable cost. It is a common occurrence for 500 to 1,000 people to witness the awards of 15 or 20 certificates at a county seat. In one Mississippi county 48 boys averaged 92 bushels per acre. In one South Carolina county 20 boys produced 1,700 bushels of corn on 20 acres. In another county in the same State 142 boys averaged 62 bushels per acre.

This work is having much to do with the increased averages of the Southern States in corn production. It will have something to do with reducing the cost of living, also.

The following are the names and addresses of the winners of the trip to the capital of their country, and also the yields of their respective acres and the cost per bushel:

Names and addresses.	Number of bushels.	Cost per bushel.
		Cents.
Hughey A. Harden, Banks, Ala	120	32
Ira Smith, Silver, Ark	119	8
Joseph Stone, Center, Ga	102⅛	29
Stephen G. Henry, Melrose, La	139⅛	13⅛
William Williams, Decatur, Miss	146¾	18
W. Ernest Starnes, Hickory, N. C	146¾	38
Floyd Gayer, Tishomingo, Okla	95⅛	8
Jerry H. Moore, Winona, S. C	228⅛	43
Norman Smith, Covington, Tenn	125⅛	37
William Rodger Smith, Karnes City, Tex	83⅛	13⅛
Maurice Olgers, Sutherland, Va	168	40

In addition a second prize was given from South Carolina and one from the sixth Alabama congressional district. These were won by:

Names and addresses.	Number of bushels.	Cost per bushel.
		Cents.
Archie Odom, Bennettsville, S. C	177⅛	23
John Williams, Tuscaloosa, Ala	85¼	49

Secretary Wilson will award diplomas of merit, the distinguished visitors will be presented to the President, and then Prof. O. B. Martin, assistant to Dr. S. A. Knapp in the demonstration work and in charge of the boys, will show them the city. They will visit Congress, Mount Vernon, the various departments, the Zoo, the Library, and other attractions. When they return to their homes they will have something to tell to their families and friends.

GREAT CORN BELT MOVING SOUTH.

The following nine States, as officially reported by the United States Department of Agriculture, show an increase of 158,294,000 bushels of corn, which is 45 per cent of the total increase for the year for the entire United States:

States.	Average yield per acre, in bushels.			Total crop, in bushels.	
	1909	1910	10-year.	1909	1910
Virginia	23.2	25.5	22.7	47,328,000	54,621,000
North Carolina	16.8	18.8	14.8	48,686,000	57,754,000
South Carolina	16.7	18.5	11.6	37,041,000	44,733,000
Georgia	13.9	14.3	11.5	61,160,000	64,808,000
Alabama	13.5	18	13.5	43,646,000	63,432,000
Mississippi	14	20.5	15.2	40,745,000	66,256,000
Louisiana	23	23.6	17.5	51,198,000	58,835,000
Arkansas	18	24	18.7	50,400,000	69,216,000
Texas	15	20.2	19	122,250,000	181,093,000
Total				502,454,000	660,748,000
					502,454,000
Total increase in one year					158,294,000

Farmers' cooperative demonstration work has been conducted in each of these States.

NOTICE OF CONTEST SENT OUT BY EXTENSION DEPARTMENT OF AMES, IOWA.

Boys who this year grow good acres of corn in the Iowa fourth congressional district, including Worth, Mitchell, Howard, Winnishiek, Allamakee, Cerro Gordo, Floyd, Chickasaw, Fayette, and Clayton Counties, will have a chance to win a free trip to Washington, D. C., to Des Moines, and other things worth while.

On request of the extension department of Iowa State College, at Ames, Congressman GILBERT N. HAUGEN, of the fourth congressional district, offers as a prize to the boy who grows the best acre of corn in the fourth congressional district in the acre corn-growing contest of the Iowa Boys and Girls' Club this year a free trip to Washington, with expenses paid going and returning and while at Washington, seeing the points of interest in the city and near-by points.

STATE-WIDE-PRIZE WASHINGTON TRIP.

Arrangements are being made also to give a free trip to Washington to the boy and the girl who are sweepstake winners in the entire State—the boy with the best corn record and the girl with the best record in domestic-science work.

CONDITIONS FOR ENTERING CONTEST.

1. All that is necessary to enter the contest is for the contestant to be over 10 and under 18 years of age on July 1, 1911; to sign and mail the enrollment card or application; select his acre plot, which may be a separate piece of ground or a part of a field; secure his seed; and go to work. Those now enrolled in the acre corn-growing contest of the Iowa Boys and Girls' Club are already properly entered.

2. Each contestant must do all his own work, except a very young contestant may hire heavy plowing and cultivation done in preparing soil for planting.

3. The contest will be conducted by the extension department of the Iowa State College at Ames, under the regulation of the Iowa Boys and Girls' Club.

GET BUSY.

Boys, get busy. Choose your acre plot, fertilize it well, prepare soil thoroughly, get the best seed corn you can find, and raise the best acre of corn you or your neighborhood ever raised. You can do it. Let us show what Iowa can do in corn production.

ENROLLMENT CARD.

ACRE CORN GROWING CONTEST.

EXTENSION DEPARTMENT,
Ames, Iowa.

I desire to become a member of the Iowa Boys and Girls' Club, and hereby enroll in the acre corn-growing contest. I shall get the best seed corn I can, select my acre plot, and begin at once to raise the best-yielding acre of corn I can. Please send me further instructions.

Name, ———— ————. Date, ————, 1911. Age, ———— ————. Month of birthday, ————. Address, ————. County, ————.

NOTE.—Write plainly and mail to Extension Department, Ames, Iowa.

Canadian Reciprocity.

The Canadian reciprocity agreement now pending, if adopted, will result in irreparable loss to the farmers of the United States.

SPEECH

OF

HON. JAMES M. GUDGER, JR.,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, April 19, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes—

Mr. GUDGER said:

Mr. CHAIRMAN: The success of the Democratic Party is more important and of greater moment to the country at large than the selfish advancement of any particular man. The country demands beneficial legislation and not personal criticism. I do not impugn the motives of any honorable man who fails to agree with my views on reciprocity, and I must confess my great surprise that the gentleman from North Carolina [Mr. KITCHIN], a member of the Ways and Means Committee, should deem it wise and expedient or calculated to produce harmony in the Democratic ranks by criticizing the attitude and impugning the motives of three Representatives from his own State simply because they disagree with his views on this bill.

I will not be so unkind as to charge him with being influenced in his vote because he is found voting with the arch enemy of Democracy, the gentleman from New York [Mr. PAYNE], who is known as the father of the present unjust tariff bill, that has made the rich richer and the poor poorer; nor will I chide him for voting with the gentleman from Indiana [Mr. CRUMPACKER], whose effort has ever been to humiliate the South by trying to secure force-bill legislation, to place Federal soldiers and bayonets at every voting precinct in the South, denying the States the legal right to control their own elections. I will not criticize him for voting with Mr. MANN, the Republican minority leader.

Mr. KITCHIN, in his speech, stated: "If you will scratch a little deeper, you will find the real reason for the opposition to this measure," referring to the lumber, wood-pulp, and mica industries. But he failed to mention the fact that he represents possibly the largest peanut-growing district in the United States, and that this industry is highly protected in this agreement. [Laughter.]

While I do not wish to be understood as intimating that this fact influences his vote, still it occurs to me that if the "scratching method" is to be applied as proposed by him, you are forced to find the "moving cause" for his action, according to his method of reasoning. It is unjust to injure the industries of other sections in an overzealous effort to advance and open up a wider market for the peanut industry.

Is this reciprocity bill a Democratic measure?

In order to determine whether this reciprocity agreement is a Democratic measure, we must examine the history of the bill.

It was negotiated by and prepared under the direction of Philander C. Knox, a high protectionist and a member of the President's Cabinet. It has the unqualified indorsement of the Republican President, William H. Taft, and is recognized by the press and country as the "President's pet measure."

It was introduced in the last Congress by Mr. MCCALL, of Massachusetts, who is a high-tariff Republican protectionist, and passed the House as his bill. It is championed in this Congress by Mr. MANN, of Illinois, the Republican minority leader, who is urging its passage as a Republican measure.

The contents of this agreement is the paramount issue involved at this time. If this reciprocity agreement which we have before us contained the exact words of the Payne-Aldrich tariff bill, would it be called a Democratic measure? Certainly not. And yet it is simply a modified form of that measure. The Democratic Party was not consulted in the preparation of this agreement; they have not been allowed the privilege of crossing a "t" or the dotting of an "i" in the agreement; they have been denied the privilege of offering a single amendment thereto; in other words, they have been tied hand and foot by a Republican administration and ordered to stand by silently while every article produced by the farmer is placed on the free list, and every article, after passing into the hands of the trusts, placed on the highly protected list.

I am criticized by my colleague [Mr. KITCHIN] for refusing to support this measure as it now stands. I will read to you some extracts taken from the Democratic Handbook of 1902, prepared by Gov. Harmon, of Ohio, now a presidential candidate, the lamented ex-Senator Carmack, of Tennessee, and W. W. KITCHIN, of North Carolina, setting forth the position of the Democratic Party on this question:

Reciprocity looks like free trade, but tastes like protection.
In practice reciprocity is worse than protection.
Our farmers are not sending delegates to Washington to threaten Congress if it does not pass reciprocity legislation. There is nothing in it for farmers. To them it is a sham and a fraud.
Reciprocity cares nothing for the consumer and hunts foreign markets with a club.
Reciprocity is based on the same false theories as is protection.
Reciprocity can not help the farmer, but may benefit some manufacturer.
Reciprocity is put forward to save "protection" and to stave off the demand for genuine tariff revision.
As James G. Blaine said, "The enactment of reciprocity is the safeguard of protection."
Reciprocity with one country means a tariff war with other countries. It makes few friends and many enemies.

This last declaration of our party expresses forcefully the injurious effect and result of reciprocal trade relations granted one country and denied to others. It is clearly in violation of the "favored nation" clause, and will justify other nations in legislating against this country. Equal privileges to all, the same treatment to all, is a regulation that brings trade and good will. The enormous trade controlled by the United States should not be endangered by the passage of this bill. [Applause.]

The fundamental objection to this legislation, prepared by the President, denying the right to the House of Representatives of placing any amendments to the bill, is to deny the legislative branch of this Government its constitutional power to legislate. We are transferring that power to the executive department, which violates both the letter and the spirit of the Constitution. This invasion is undemocratic and should not be tolerated.

WE MUST LEGISLATE FOR THE FUTURE.

The grave responsibility of legislation is the effect it will have on future generations. We are not living for ourselves alone, but for posterity. In this matter of such far-reaching and momentous importance the American Nation should consider deliberately and weigh carefully the results of this trade agreement.

It is established as a matter of fact, first, that Canada is much larger in territory than the United States, having an area of more than 700,000 square miles; second, that Canada has millions of acres of the finest farming lands in the world; third, that the yield of wheat per acre is one-fourth larger than in this country, their average being 22 bushels per acre, while our average is only 16 bushels per acre; fourth, lands are very much cheaper and labor commands less wages; fifth, the tariff tax of the Canadian farmer is 25 per cent less than that of the American farmer.

In the report of the Canadian committee they state that "within the scope of the committee's inquiry there is a possible 656,000 square miles fitted for the growth of potatoes, 400,000 square miles suitable for barley, and 816,000 square miles suitable for wheat.

In the Peace River Valley alone they have 65,000,000 acres of first-class agricultural land, with a wheat-growing capacity of approximately 500,000,000 bushels a year.

From these acknowledgments and indisputable facts we can well understand that the American farmer can not successfully compete with the Canadian farmer.

It is contended that Canada does not raise a sufficient amount of wheat and cattle at this time to seriously affect the market of this country. This is true, but it is only true to-day. What of the future? The motto of that vast, boundless, magnificent

country is "A billion bushels of wheat annually by 1920." Therefore the danger to our trade and the effect and influence of this new policy is easily foreseen.

The reciprocity bill which President Taft insists on having passed without amendment will be nothing short of a calamity to the man who is trying to pay for a farm. It is the greatest blow that has been aimed at the agricultural interests of this country for many years. The farmers are indignant and alarmed at the situation. The cattle associations of Texas are condemning this measure by resolutions; the granges are protesting against its passage; and the Farmers' Union are entering their disapproval.

Dr. Alexander, president of the Farmers' Union of North Carolina, has this to say:

That treaty is not fair nor just. It seeks to lower the cost of living, but taxes the farmer with the reduction without in any way compensating him for his loss. And I am not sure that it would even lower the cost of food products to the consumer. All articles put on the free list are in the raw state. No manufactured products are admitted free. The farmers and laborers produce the raw materials. Capital converts it into the finished product. Capital is protected. The man must fight unaided for his living. The dollar is placed above the man. The farmer does not demand any special privilege. He demands equal justice. He is entitled to this, and will be satisfied with nothing less.

I wish to quote an extract from a letter of Hon. N. J. Bachelder, master of the National Grange and former governor of New Hampshire, to Representative McCALL on the Canadian reciprocity question:

Hon. SAMUEL McCALL,
House of Representatives, Washington, D. C.

DEAR SIR: In your speech delivered in Congress on April 21 you have charged that the opposition of the farmers to the Canadian reciprocity bill does not represent the genuine sentiment of the farmers themselves, but that they have been induced to protest against that bill by other interests. In reply I wish to state that there is absolutely no ground for your assertion, and to assure you that the sentiment of the individual farmers in the 28 States in which this grange is organized is practically unanimous against the reciprocity scheme.

I receive regularly each week about 40 farm journals published in all sections of the country. Of these papers only one has failed to denounce reciprocity, and that one has not dared to favor it. Does this indicate that the opposition of the farmers is not genuine?

For your information I would state that, so far as I have been able to find out, there is not a single working farmer in the country who favors reciprocity; and if the farmers had a chance to vote on that proposition, the vote against it would be in the ratio of 1,000 to 1.

EFFECT ON THE AMERICAN FARMER.

This trade relation and its effect on the American farmer may be summarized as follows: Reduction in the extent of his market, in the price and sale of his farm products, his ability to maintain his family, and his capacity to live and fairly educate his children. These results will surely follow this agreement. To what extent we can not determine, but there will undoubtedly be great reductions along these lines at the expense of the farmer.

The Canadian farmer, on the contrary, will profit by an extended market, increase in the price of his farm products, and better values for his lands. Indeed, he will have an open-door market in this country without assuming any of the burdens incumbent upon citizenship.

This legislation may well be termed one to drain and deplete the farm lands of this country. Statistics show that thousands of our best farmers are now moving into Canada annually on account of its cheap, rich lands. During the last eight years over 500,000 American farmers moved into her borders, carrying with them over $1,000,000,000 in money, and this movement year by year is spreading and gathering momentum. On one train alone crossing into Canada settlers from the Western States carried in with them $225,000 in cash. Adopt this agreement and a tidal wave of emigration will sweep this country in a mad rush for Canadian homes, depleting our farms, losing our best citizenship, combined with a continued injury beyond human estimation—the loss and injury sustained by this exodus of our best farmers is not comparable with wars and pestilence.

I can not cast my vote against the American farmer's interest in order to promote the interest of Canada by curtailing the opportunity of his sales in order to enlarge that of Canada. I stand for the American farmer—to legislate in such a way as to make them independent, prosperous, and contented. I can not agree to a policy that takes away from this great country, with the finest agricultural opportunities, inhabited by the pure Anglo-Saxon race, the right and privilege of our trade opportunities by surrendering the same to a country whose allegiance is to a foreign flag. If such a policy is to be adopted, the result must come without my vote, as I stand here contending for American trade for American farmers.

IS RECIPROCITY FAIR AND JUST TO THE FARMER?

If the farmer is compelled to sell his cattle in a free market, who can deny his right to buy dressed meat in a free market? The proposed agreement places rough lumber on the free list, but maintains a duty on shingles and finished lumber. I contend that the farmer, under these circumstances, should have the privilege of buying all of his lumber free of duty. The farmer must sell his wheat in free competition, therefore I can not see why he should be denied the right to buy his coal in free competition.

Under this pact wheat, rye, oats, barley, buckwheat, and cattle are placed on the free list, but it specifically provides a duty of 50 cents a barrel upon wheat flour and rye flour; 50 cents per hundred pounds upon oatmeal and rolled oats. Meat of all kinds is to pay a duty of 1¼ cents per pound.

This gives the Millers' Association a protection of 12 cents per bushel on wheat and the Beef Trust $12 average per head on cattle. Why this bounty to these special "interests" is hard to explain, except on the theory that it was the price of their indorsement of this measure.

This is legislation in the interest of the few at the expense of the many.

We do not eat cattle or sheep. We eat meat, which is the manufactured product. If the farmers' raw material is to be placed on the free list with Canada, why were they so anxious to protect the packer, who has grown wealthy at the expense of the farmer?

This proposition to place every item owned or produced by the farmer, from the timber on his land, the cattle in his pastures, the wheat in his granary to the fowls in his barnyard, on the free list, is unfair and unjust and ought not to be tolerated by a free people, when the same agreement provides that all of these articles when changed in the least degree by the miller who grinds the wheat, the packer who slaughters the cattle, or the manufacturer who dresses the lumber are heavily protected. In other words, the farmer must compete in the open market and the consumer must buy in the protected market.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GUDGER. May I have more time?

Mr. UNDERWOOD. I give the gentleman further time.

Mr. GUDGER. In the short time allotted me, I desire to call the attention of the House to the high cost of living.

THE HIGH COST OF LIVING.

The main reason advanced as a demand for the adoption of this reciprocity agreement is in order to reduce the cost of living, and a large number of friends of this measure are proceeding under the belief that this result will follow the ratification of this agreement, being impressed with the fact that because wheat, cattle, and so forth, as before mentioned, are on the free list, that they will thereby be enabled to reduce the cost of living, when, as a matter of fact, all of these articles are placed upon the dutiable list before they reach the ultimate consumer. The present high cost of living is attributable to the Packers' Trust, the Millers' Trust, and other trusts who control the sale of these articles, and from whom the consumer must purchase, therefore the final result must be injury to the great farming classes of our people, with millions added to the wealth of the trusts, still holding the consumer at their mercy.

The supporters of this trade agreement must demonstrate to the American people that the passage of this bill will reduce the cost of living to the ultimate consumer.

They are dangerously approaching a pitfall when they declare to the producer that he will obtain a wider market and therefore higher prices for his products, and at the same time tell the consumer that he will be enabled to purchase in a cheaper market. This is, indeed, an argument that it is possible to ride at the same time two horses traveling in opposite directions—a contention so absurd that the mere statement of the proposition is sufficient to demonstrate its falsity.

In order to reduce the cost of living, prices must be lowered, if prices are lowered the farmer must suffer.

BURDENS.

For more than 50 years the farming people of this country have contributed to the trusts and combinations who have become millionaires at their expense, and after all this sacrifice, by an indomitable energy and economy on their part, they have just now reached a point enabling them to reap the benefit of their labor.

They have defended this country in times of war; they have opened up the finest school system in the world; they have made possible the erection of immense factories employing thousands of laborers, making large demands for agricultural products. The purpose now is to make our people believe that it is to their best interest to turn over this immense trade to the Canadian people who have not spent one single dollar in building up this trade nor sacrificed one drop of blood in defens

this country. Let come what will, let come what may, Canada will never spend one single dollar in defense of this country, in the support of our educational system, in defraying the expense of our Government. They will be like the ships that pass in the night, meet, touch, and part, without our country reaping any material benefit.

It is vehemently asserted that a tariff on corn, oats, barley, and wheat is a fraud and a delusion. It seems to me that the Democratic Party is estopped from setting up this defense. When in power, by the Wilson and Gorman tariff bill a duty was placed on these articles. That bill, prepared by distinguished men like Wilson of Virginia, Carlisle of Kentucky, Ransom and Jarvis of North Carolina, great representatives of the people, it is unthinkable that the work of those patriots is to be criticized and denounced as a sham and a fraud. I absolutely refuse to accept the argument that it is not beneficial to retain a duty on farm products.

It is always wise to carefully investigate the influences behind all proposed new legislation. No demand has been made for the passage of this Canadian reciprocity measure, but the country has demanded and favors a genuine revision of the tariff—a downward revision, and the Democratic Party was called to power to do this great work in the interest of the people. In the faithful performance of this great task it must be judged. I am here to legislate in favor of the interests of the men who have cleared the forest, who built the homes, the churches, and the schools, who blazed the way and opened up the boundless West. This class of men must have justice, and while they are at work on their farms at this very moment, feeding 92,000,000 people, I stand here as their representative defending their interests and demanding justice for them.

In a great country like ours, stretching from ocean to ocean, from lake to gulf, embracing within its limits every kind of soil, capable of producing everything used by man, the trade privileges of the greatest Government on earth should be retained and used for the people who float the Stars and Stripes. [Applause.]

The Relations of the United States to Other American Governments—The Monroe Doctrine and Its Limitations.

REMARKS

BY

HON. JAMES L. SLAYDEN,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, May 17, 1911,

Submitting an address delivered by him before the Third National Peace Congress, at Baltimore, May 4, 1911.

Mr. SLAYDEN said:

Mr. CHAIRMAN AND GENTLEMEN: The relations of the United States to the other American States are unique and of the highest political importance.

Of consequence, originally, because they were parts of the same continent the relationship now has other and vastly greater reasons for this importance.

Before the development in steam transportation made them neighbors they were separated by almost impossible distances. To-day the journey from Buenos Aires, Santiago, and Rio, that was once remarkable and the achievement in travel of a lifetime, is a mere commonplace. No part of America is remote from any other part. The sanitation of any one city or country is a matter of grave concern to every other. The political quiet and the unimpeded flow of trade in each touches more or less the life of all others. Population and commerce have grown in the most extraordinary way. The Americas have become a big part of the world, and the adjustment of purely American affairs among the American Governments is of proportionate importance. We ought to deal justly with all Governments everywhere, we ought to live on terms of amity with the whole world, but it is peculiarly our duty, as it is specially our interest to live on just and friendly terms with our neighbors.

In 1823 a British premier, in a private letter to the diplomatic representative of his country in Spain, while referring to the United States and another country on this continent, said, "They are too neighborly to be friends."

That cynicism, I regret to say, was founded in a knowledge of history and the passions of men.

Is it as true to-day as it was then that mere proximity makes enmity between men? If it is the world has not moved toward higher and better things as I had hoped, and we are in contempt of the greatest authority that ever tried to regulate the affairs of men by refusing to obey the injunction "love thy neighbor as thyself."

OUR GOVERNMENT THE MODEL.

There is every reason why the United States should be on terms of affectionate political intimacy with the other Governments of this continent. They profess the same political faith that we hold; they have flattered us by modeling their Governments on ours, and it can not be truthfully said that any one of them has ever menaced us in our territory or sovereignty. As we set out to walk so have they also undertaken to travel. We gave them a set of political principles, and now it is our duty to leave them an opportunity to develop along the lines that may seem best to them.

In the eighteenth-century effort to transfer power from church and king to the people the English colonies in America were leaders. It was the success of the movement that they led and the setting up of a government by the people that was safe and conservative, while it also protected life and property, that at once commanded the attention of the world. In royal circles it caused apprehension; among the people whose contributions kept luster in the purple of the kings it developed high hopes that justified the fears of their masters.

Among the supporters of kings the methods of the young Republic were sneered at and its quick collapse predicted. Instead of crumbling it waxed strong, and its fame spread the length and breadth of this vast continent. It became an exemplar for all liberty-loving American communities.

Information of what was done by Washington, Franklin, Adams, and Jefferson spread from the St. Lawrence to the River Plata. It crossed the Andes and forced its way through tropical jungles, carrying light and hope to the oppressed sons of men everywhere, alike on the mountain tops and by the sea at the Equator.

Kings who saw the menace to their system of personal government in the new movement pointed to the violent and unreasonable outburst in France as evidence of the incapacity of men to govern themselves. It did bring discredit to the republican system for awhile, but for a brief while only.

The conspicuous success of the American Republic had a liberalizing effect on Governments of the Old World and became an example and inspiration for the new.

INFLUENCE IN SPANISH AMERICA.

Under these circumstances it is small wonder that Spain's American colonies rapidly, one by one, asserted their own independence and set up republics similar to that in North America.

At that time Europe was either too much occupied with the Napoleonic wars or too exhausted as a consequence of them to give much attention to American affairs. The Spanish-American population was not large, and aside from the output of gold and silver the colonies were not important commercially. It was not interest in the people of the colonies or the commerce of South and Central America that finally stirred Europe to action, but the alarming spread of the republican idea.

Just as soon after the passing of Napoleon Bonaparte and the organization of the Holy Alliance as Europe could catch its breath preparations were made to deal with America.

The "Holy Alliance" determined "to put an end to the system of representative government" and to "destroy the liberty of the press."

Originally the Prince Regent of England had given his adhesion to the schemes of the allied monarchs, but their reactionary program was not to the taste of the British Government, and it was withdrawn. The hostile spirit that grew out of the difference of opinion between constitutional England and continental Europe subsequently had a marked influence on the history of our own country, particularly as our affairs touch those of other American Governments.

By the time the royal allies were ready to begin the execution of their program in America the United States had grown largely in wealth and population. The second war with England was 10 years to the rear, and "the call of the blood," which, after all, is stronger and will endure longer than any political exigency, had made friends of the two great English-speaking countries.

Great Britain did not look with favor on the project of the royal allies to use their combined resources in an effort to re-establish Spanish authority in America, and of course it encountered a hostile spirit in the United States.

At that very time, when our interests and those of England were happily concurrent, George Canning, the English foreign minister, advised Mr. Rush, the American minister, that his Government did not sympathize with the effort of the European

allies to force Spain's revolted American colonies to renew their allegiance to the mother country.

Rush promptly communicated the important message to the President, James Monroe. Mr. Monroe consulted Thomas Jefferson and James Madison, both of whom were in retirement in Virginia, and chiefly on the advice of Thomas Jefferson the President put into his message of December 2, 1823, the language that gave us what has ever since been known as the Monroe doctrine.

WHAT IT IS.

This much talked of and generally misunderstood doctrine, that is, without doubt, the most important of all our foreign policies, was conceived *solely* as a measure of defense. That Mr. Monroe himself so regarded it is clearly deducible from the language in his letter to Mr. Jefferson, written on the 17th of October, 1823, the same letter in which he sent the dispatches from Minister Rush that contained the Canning suggestion. He said:

> My own impression is that we should meet the proposal of the British Government, and to make it our own, that we should view an interference on the part of the European powers, and especially an attack on the colonies as an attack on ourselves, presuming that if they succeed with them they would extend it to us.

If any student of this question will take the trouble to read Jefferson's letter to the President, written in October, 1823, and the message of December 2, he need not remain in doubt as to the precise meaning of the policy that bears the name of Monroe.

It does not set up a protectorate over the other American Governments. It does not confer upon the United States the right to censor or regulate the internal affairs of any other country. It does not give us the right to intervene when their domestic affairs are in turmoil, nor between them and any other country when they have unsettled questions.

It does not even assert the right of this Government to control the form of government that other American countries may have. Under it we have no right to protest if every country on the continent from Mexico to Chile should exchange the republican form of government for an autocracy. We might find some other reason for doing so, but certainly we could not under such circumstances interfere because of the rule laid down by James Monroe. It does not seek to protect any country against just punishment for the breaking of treaties or wrongs to the citizens of another Government. Now, let us see what is really does.

Disputed passages of the Holy Scripture that worry the commentators are often cleared up by reading the Bible itself. Just so with the Monroe doctrine. Even a casual examination of the authorities discloses the fact that after all it is a simple, easily understood matter.

Mr. Jefferson, in his letter of October, 1823, that outlined to Mr. Monroe what, in his judgment, should be our policy, said:

> We aim not at the acquisition of any of these possessions, * * * but we will oppose with all our means the forcible interposition of any other power, * * * and most especially their transfer to any power by conquest, cession, or acquisition in any other way.

That letter, supplemented by Monroe's message, made the "doctrine."

Here is Monroe's own language:

> The occasion has been judged proper for asserting as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent station which they have assumed and maintain, are henceforth not to be considered as subjects for future colonizing by any European power.

Of course the President meant political colonies.

Again, he says:

> We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety * * *

And—

> we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States.

Jefferson's letter and the message of President Monroe should be conclusive as to the meaning of the Monroe doctrine. But the views of other of our great statesmen may be more convincing to some. Daniel Webster said of it in 1826:

> The amount of it was that this Government could not look with indifference on any combination among other powers to assist Spain in her war against the South American States; that we could not but consider any such combination as dangerous or unfriendly to us.

In another speech in the same year he said:

> It did not commit us to take up arms on any indication of hostile feeling by the powers of Europe toward South America.

Richard Olney, of Massachusetts, Secretary of State in the administration of Grover Cleveland, also defined the Monroe doctrine in a letter of instructions that he sent Minister Bayard during the consideration of the Venezuelan boundary question. He said:

> It does not establish a general protectorate by the United States over other American States. It does not relieve any American State from its obligations as fixed by international law, nor prevent any European power directly interested from enforcing such obligations or from inflicting merited punishment for the breach of them. It does not contemplate any interference in the internal affairs of any American State or in the relations between it and other American States. * * * The rule in question (the Monroe doctrine) has but a single purpose and object. It is that no European power or combination of European powers shall forcibly deprive an American State of the right and power of self-government and of shaping for itself its own political fortunes.

That dispatch of the Secretary of State is a clear and complete definition of what was meant by Mr. Monroe in his famous message. It so clearly and positively defines the limitations of the Monroe doctrine that there has never been any reason since its publication why there should be doubt as to its meaning. *The positive assertion that it did "not contemplate any interference in the internal affairs of any American State" is particularly pertinent now when so many thoughtless people are urging interference in the affairs of Mexico and invoking the rule called the Monroe doctrine as authority for the unwarranted and trouble-breeding course they propose.*

Gen. John W. Foster, of Washington, formerly Secretary of State, an eminent international lawyer and with a broader experience in diplomatic service than any living American, concurs heartily in the opinion so ably presented by Mr. Olney.

DOES NOT PROTECT DEFAULTING GOVERNMENTS.

The impression of many people that the Monroe doctrine is an ægis that will protect every government on this hemisphere against merited punishment for its evil deeds or laches is altogether wrong. Even the former President of the United States, whose strongest claim to the attention of posterity is associated with a club and threats of violence, said as much in his message to Congress in December, 1901.

Whatever we may think of Mr. Roosevelt personally and of his policies, it can not be denied that he always expressed himself in clear, strong language. He said:

> We do not guarantee any state against punishment if it misconducts itself, provided that punishment does not take the form of acquisition of territory by any non-American power.

Mr. Roosevelt, in that same message, gave his definition of the doctrine, and the correct one, let me say. He wrote:

> The Monroe doctrine is a declaration that there must be no territorial aggrandizement by any non-American power on American soil.

That from the head of the tribe of jingoes ought to be conclusive as to its meaning, even among those who repudiate the teachings of Jefferson, Monroe, Webster, Olney, and Foster.

Some people may be wicked enough to observe that the inhibition of the ex-President applied only to non-American powers, although the makers of the policy disavowed any such design on our part also.

DOES NOT MAKE THE UNITED STATES A BAD-DEBT COLLECTOR.

Senator RAYNER has lately shown eloquently and clearly that the Monroe doctrine did not make us an agent to collect doubtful loans made by European usurers. He has indicated with scorching wit what would be the consequences of a policy that would drive us into stockjobbers' and money lenders' wars.

A great deal of needless confusion seems to exist in the public mind as to the extent to which a nation may interfere in order to protect the business of its citizens as against the foreign nations of their residence. The belief seems to be deliberately encouraged in some quarters that wherever American citizens or American-owned property may be subject to attack it is the duty of the United States to constitute itself their defender, even to the extent of sending armed bodies of troops upon foreign soil. No more mischievous conception could be entertained. It is a negation of the true functions of government that are well expressed in the preamble of the Constitution of the United States, which is in these words:

> We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Not a word is said about the furtherance of American investments upon foreign soil. Not one syllable is uttered with regard to creating for Americans when abroad a better situation than is enjoyed by the citizens or subjects of the foreign country. We were engaged in forming such a government as would "secure the blessings of liberty to ourselves and our posterity." Our prime duty was and is to insure justice at home, not to enforce our own methods and ideas upon unwilling nations, or to pass, as it were, judicial decrees of injunction against foreign nations, and ourselves put into execution upon foreign soil the decrees we might so pass.

The man who goes abroad does not take with him the liberties he enjoys at home, nor does he carry on his back what we consider the blessings of the common law. When he plants his foot upon foreign soil he accepts the conditions there existing. If the forms of law are more rigorous than are known at home, if their manner of execution be more severe, if the Government be less able than his own to insure him the blessings of liberty, there is only to be said to him that he has chosen the bed and in it he must lie.

All this is *not* to say that the foreign government may, without redress, execute upon him and his property lawless acts, or to say that it may permit its citizens to injure or destroy the American or the property of the American who dwells among them. But it is to say that he has accepted the chances of revolution or disorder in the country of such government, equally with its citizens or subjects, and that equally with them he has accepted the customary application of its laws.

Many times in the past it has happened that Americans abroad have been the object of peculiar attack because they were Americans, and often has it been the case that Americans have been subjected to especial injustice at the hands of foreign courts. Again, national governments have broken faith with them. In many of these instances the friendly offices of our Government have been sought to insure for our citizens not special but just treatment. Often without hesitation relief has been freely accorded, and in some instances when not so accorded by agreement between the two countries the matters in dispute have been referred to a competent tribunal for adjudication, the results of whose work have been, as a matter of course and without protest, accepted by both parties. This line of conduct has internationally hardened into a custom that has become a rule of international law.

The course pursued by us is that also followed by other countries. In the winter of 1902–3 the combined fleets of England and Germany, joined later by Italy, created what was known as the Pacific Blockade of certain Venezuelan ports. Prior thereto English and German subjects had been, through the action of the Venezuelan Government, or its officials, plundered or wrongfully killed, contracts with them had been broken, and in other ways they had suffered.

The complaining nations might have required their citizens to seek relief in the national courts of Venezuela, but internationally they were not compelled to do so, the more so because such relief as might have been accorded foreigners before the Venezuelan courts in making such complaints was hedged around with peculiar difficulties, causing a foreigner justly to hesitate in making an appeal to the local judiciary. In this state of affairs England and Germany applied not once but many times to the Venezuelan Government for relief for wrongs inflicted upon their subjects, Venezuela sheltering herself behind the provisions of the constitution that undertakes to limit foreigners to such redress as Venezuelan citizens might receive upon recourse to the local courts, and refused arbitration. The blockade only took place after continued refusals, and its result was the reference of the claims in dispute to three arbitral tribunals that granted appropriate relief.

Internationally the course of the great powers enumerated was strictly correct. They did not take the law in their own hands until Venezuela had persistently refused to afford or accord them the relief it was internationally her duty to afford.

Let us, in the light of the foregoing, consider the extent to which the United States may proceed in the direction of protecting the rights of its citizens abroad. It may call the attention of the foreign offices of other countries to abuses perpetrated against Americans or violations of governmental contracts by which they have been sufferers. It may insist that resort be had to arbitration if no settlement be effected. Upon the conclusion of the arbitration it may require compliance with the award of the arbitrators. All this is proposed with regard to contract debts in the following provision of The Hague convention respecting the limitation of the employment of force for their recovery:

> ARTICLE 1. The contracting powers agree not to have recourse to armed force for the recovery of contract debts claimed from the government of another country as being due to its nationals. This undertaking is, however, not applicable where the debtor's State refuses or neglects to reply to an offer of arbitration or, after accepting the offer, prevents any *compromise* from being agreed on or, after the arbitration, fails to submit to the award.

ITS IMPORTANCE HAS PASSED.

The rule laid down by Mr. Monroe served a good purpose one time, but the necessity for it passed long ago. When announced it was a means of defense for a weak country.

Once an asset of value, it is now an obligation. In the popular view it has the effect of making us politically responsible where no compensating advantage is to be found. Personally I can see no harm to come from its frank abandonment, at least so far as it is supposed to interdict colonization.

One can not be very proud of those timid Americans who tremble with fright because a few score thousands of Germans, men of our own race and blood, have settled in Brazil.

A SOUTH AMERICAN VIEW.

So far as I am advised, the people of South America do not want us to protect them against the settlement of white Europeans on their unoccupied lands. They do not believe that we have the right to assert a policy that will retard the development of their resources, and I must own that I think their position is well taken.

In a recent issue of the Century Magazine Mr. J. D. Whelpley, who wrote from Buenos Aires, quoted a prominent Argentinian as asking:

> What do Americans want here? We know you want trade—that is natural—and when you send us capital and take our produce you can have it. But what else do you want? Why this enthusiasm for the Pan American idea? We are afraid of you because we do not understand. Do you want to control our foreign relations? That is what we fear, and we resent it; we do not like to be patronized, and we resent it. We are a great nation and we can take care of ourselves.

Mr. Whelpley calls attention to the fact that in South America the traveler finds no fear of England or Germany in the matter of territorial aggrandizement or undue influence in the field of South American politics. Such fear as exists is, he says, directed entirely toward the United States—and, here I quote Mr. Whelpley's words:

> More distrust of the Monroe doctrine is encountered among the people whom it was designed to protect than among those in Europe against whom it was directed.

IMPROPER INTERFERENCE WITH OTHER GOVERNMENTS.

The danger in the policy is that it may lead to an improper interference in the affairs of other countries. There is never an internal row in some of those countries that are inclined to rows that certain "yellow" newspapers and excitable people do not set up a clamor for intervention. It is a constantly recurring danger, and it takes calm judgment and clear heads in the administration to keep out of a situation that holds nothing but trouble for the meddler. The danger of intervention is recognized by other American Governments, and no matter how much we may try to hide the ugly fact behind the polite phrases of diplomacy it has begotten a feeling of suspicion and hostility.

Spanish-American countries deny our right to act as censor of their affairs. They say that they are free, independent, and sovereign States, and as such entitled to the same degree of respect and consideration that is shown the most powerful government on earth.

They admit no degrees of sovereignty, but hold with Vattel that:

> Nations inherit from nature the same obligations and rights, and that power and weakness could not, in this respect, produce any difference, the smallest republic being no less a sovereign than the most powerful kingdom.

John Marshall, our eminent Chief Justice, who it will be admitted had almost as much knowledge of law and the rights of sovereignty as the editors and their clients who clamor for intervention in Mexico, held and strongly expressed the view of the perfect equality of nations.

How much it would contribute to political calm and to the maintenance of peace if the amateur diplomats and long-range warriors, who for some time have been clamoring for the dispatch of an army to a neighboring country to interfere in a purely family quarrel, could only be persuaded to concur in the views of Marshall, Olney, Adams, and Jefferson!

OUR DUTY TO OTHER AMERICAN STATES.

Primarily our duty to other American States is to let them alone, to give them an opportunity to develop along those lines that seem best to themselves, only holding them to a strict respect for the obligations of international law, an obligation, by the way, that is mutual.

They have a right to demand that we shall treat them as we would have them treat us if conditions were reversed; if, in other words, they were strong and we were weak. We preach this doctrine of the golden rule as the only proper line of conduct for individual men in their relations with each other. Will the time ever come when we shall see it applied to governments? I hope so, but I am afraid it is a long way off. It is a curious and shameful fact that while individual honesty appears to be the rule among men there seems to be no real national integrity. People with a true perspective of morals are often painfully shocked to hear men of good standing, men who in their personal affairs are scrupulously honest and gentle, violently support the propaganda of war and national theft. Without knowing anything about the real situa-

tion, scorning the doctrine of the golden rule and of common honesty, they vehemently demand that the Government shall adopt a policy that means war and conquest. Now, war means the killing of other of God's creatures who have as good a right to live as we have, and conquest means the taking from them of something to which they have a good title—at least a recognized title—and we have none at all.

The recent noisy and unjustified demand for intervention by our Government in the internal affairs of Mexico is a case in point. The Government of Mexico is not the government that we would like. Nor is that of France or Germany or Great Britain. But it is the sort of government that the Mexicans have set up for themselves, and its form and facts are not our concern so long as international obligations are discharged. That was the view of Thomas Jefferson, and it is the correct view to-day.

For years we have been trying to remove the suspicion with which Spanish America views this Government and its policies. The hostility that grows out of that suspicion impedes the development of international trade, and so it is economically hurtful. The best efforts of the President, acting for all the people, and of wise and just men everywhere who neither want to kill nor rob their neighbors are largely neutralized by the thoughtless and willfully criminal.

There is the soldier of fortune about whose activities we have heard so much lately. He is a grotesque and unattractive survival of the least worthy period of knight errantry. Perhaps it would be more accurate to say that he is a descendant of the robber hordes that infested Germany after the Thirty Years' War. There is no reason for his existence. He is a criminal anachronism, and if his name should appear in the list of casualties we would be easily reconciled. He respects no laws. His purpose in life is to overthrow government and to substitute chaos for order, turbulence for peace, and for all that unworthy work he holds himself for hire.

INADEQUATE NEUTRALITY LAWS.

One of the best ways in the world of maintaining peace is to have a good code of neutrality and to enforce it. Ours, I am sorry to say, has been shown to be shamefully inadequate.

For some time civil war has been raging in Mexico. It is notorious that the insurrectos, so called, have been equipped from the United States both with men and arms. Everybody has known it but the agents of the Department of Justice. The newspapers have heralded the expeditions and from day to day have given circumstantially the movements of the filibusters. They have usually gone out as advertised in the schedule and with rare exceptions have connected with the insurrectos whom they were proposing to aid.

In the San Antonio Express of April 11 there appeared as an ordinary item of news a statement "More arms and ammunition for the revolutionists have gone westward." It also said that United States officials there were advised of the movement, but could do nothing.

The same issue of the San Antonio paper had several items telling of the activities of the filibusters. We have been asked to sympathize with anarchists and socialists from California and graduates of American colleges who were burning railroad bridges and lifting cattle from such ranches as had the misfortune to fall within the sphere of their activity.

Indeed, it appears that we have done nearly everything possible to arouse the hostility of the mass of the Mexican people and to cause all Spanish Americans to think that we are trying to develop an excuse for intervention and conquest.

I can not trespass on your attention to argue the unwisdom of political association with people who speak a different language and who have different ideas of government. About that many convincing things might be said. I shall content myself with calling to the attention of this great peace congress a resolution that I offered in the late Congress and which was promptly and unanimously reported with the recommendation that it be passed. It was first proposed in a great convention of business men and was unanimously approved.

It briefly outlines an American policy that will make for peace. It is, in my judgment, a natural and proper supplement to the Monroe doctrine or a good substitute for it. It will renew the waning confidence of the Central and South American people in that doctrine, for it will be a pledge of honesty and fair dealing. It merely proposes that the various American Governments shall mutually agree that hereafter no territory will be transferred from one to the other as a consequence of war. It proposes a treaty that will simply say that the American Governments in the future shall not steal territory from each other. It will be mightily helped along if you will formally approve it here. I will read the resolution, which is brief and for which I earnestly ask the exercise of your influence:

Whereas in the opinion of the Trans-Mississippi Commercial Congress, now in convention, the peace and the commercial development of the American Continent would be more certainly and speedily secured if the various South, Central, and North American Governments were reasonably assured against the forced permanent loss of territory as a consequence of war or otherwise: Therefore be it

Resolved, That the President of the United States be requested to enter into negotiations for the making of a treaty that will forever quiet the territorial titles of the various American States.

Let the doctrine of that resolution be accepted by the whole of America, and it will be a long step toward world-wide peace. There is nothing strange in the suggestion. It has been adopted by Germany, Denmark, France, Great Britain, the Netherlands, and Sweden in a formal and mutual guaranty of the territorial integrity of the countries bordering on the Baltic which is epochal in its importance.

Under the wise direction of such bodies as yours and with the policy suggested in this resolution, we may hereafter hope to have the western world, at least, looking for reasons to keep the peace and not for causes of war.

New Mexico and Arizona.

SPEECH
OF
HON. EDWIN E. ROBERTS,
OF NEVADA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 23, 1911,

On joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona.

Mr. ROBERTS of Nevada said:

Mr. SPEAKER: So much has been said pro and con during this debate upon the admission of Arizona and New Mexico into the Union, and so wide a range has the debate taken, that I desire to add to my remarks of yesterday some facts of an historical nature which may throw some light upon the admission of new States and the character of the pioneers who settled in the far West, extended our civilization, and assisted in the preservation of this Union. The State of Nevada, which I have the honor to represent, is a neighbor of Arizona and New Mexico, and was, like them, a part of the territory acquired from Mexico by the treaty of Guadalupe Hidalgo in 1848. Nevada's history is so closely interwoven with the preservation of the Union that no one can read it without feeling more patriotic and becoming a better citizen.

Turn back the pages of history, if you will, and read and learn something of the character of those early pioneers, who braved the dangers of frontier life, and by their courage and perseverance laid the foundation of our western civilization. It took men of strength, courage, and character to cope with the difficulties that confronted them on all sides. It took men of the highest type of citizenship to surmount the natural barriers that for ages had defied the onward march of progress and pave the way for the countless thousands yet to follow.

It was the lure of gold in the West that occasioned the wild, mad rush during the years of 1849 and 1850, when the great State of California, then an unknown wilderness, was transformed into a rich, thrifty, and populous Commonwealth. It was the lure of silver in the Comstock mines of Nevada a decade later that checked the westward march across the high Sierras and brought back from California thousands of the daring pioneers who only a few years before had traversed the same section, hastening onward toward the "setting sun." The riches of the Comstock drew to Nevada a large population, and the output of the "Old Lode" eclipsed the glories of Potosi. Other camps sprang up in other parts of Nevada, and the pioneer miners of those days, resolute of will, inured to hardship, and possessed of that irrepressible spirit so characteristic of the West, laid the foundation of the "Battle Born" State.

The gold and silver products of these camps running into millions was poured into the channels of trade and the business industries of the country took on new life. The population of what was then the western part of Utah Territory steadily and rapidly increased in numbers until the new El Dorado was obliged for the present and future protection and advancement of its interests to take steps looking toward the formation of a new Territory.

The preliminary steps were taken, and on the 2d day of March, 1861, Nevada became a Territory. The year 1861 was a memorable one. It was the severest winter ever experienced in the Great Basin, and those rugged mountain pioneers who struggled with the rigor of the elements were well seasoned for the greater work that lay before them. National affairs were moving swiftly, and event followed event with such rapidity that scarcely had Nevada donned her Territorial "robes" and assumed the limited responsibilities of a Territorial form of government than the question of statehood began to assume definite proportions. The War of the Rebellion was on, and ere the smoke had cleared away from Fort Sumter, the people of the United States had taken sides either for or against slavery. President Lincoln had, whether advisedly or not, appointed as Territorial governor of Nevada James W. Nye, one of the most powerful advocates of the antislavery cause in the United States, and it was largely through his advocacy that the Western States supported the administration. With your indulgence, I shall quote from the remarks of Supreme Court Justice Hon. Frank H. Norcross, recently made by him in addressing the graduating class of the State University at Reno, Nev.:

The political necessities growing out of the Civil War caused President Lincoln to deem the admission of the Territory of Nevada into the Union as a State a matter of the very greatest importance. His administration had determined that the Constitution should be amended so that slavery should be abolished.

"This," says Mr. Charles A. Dana, in his book, Recollections of the Civil War, "was not only a change in our national policy, it was also a most important military measure. It was intended not merely as a means of abolishing slavery forever but as a means of affecting the judgment and the feelings of those in rebellion. It was believed that such an amendment to the Constitution would be equivalent to new armies in the field, that it would be worth at least a million men, that it would be an intellectual army that would tend to paralyze the enemy and break the continuity of his ideas."

To thus amend the Constitution required that the proposed amendment be ratified by three-fourths of the States. When that question came to be considered, the administration found that of the States it could rely upon it was one short of the necessary number. The genius of President Lincoln solved the problem. He would create a State out of the Territory of Nevada for the purpose, and rely on the patriotism of her people to ratify the amendment. In March, 1864, the question of allowing Nevada to form a State government came up in the House of Representatives. There was strong opposition to it, but Mr. Lincoln threw into the breach the potent force of the administration and the measure was carried. Mr. Dana, then Assistant Secretary of War and one of the President's confidential advisers, quotes Mr. Lincoln as saying, shortly before the vote was taken:

"Here is the alternative—that we carry this vote, or be compelled to raise another million, and I don't know how many more, men, and fight no one knows how long."

When great political questions are in the balance, sometimes events follow each other with remarkable rapidity. On the 21st day of March, 1864, the enabling act for Nevada passed Congress and was approved by President Lincoln. The act provided for an election to be held on the first Monday of June following for delegates to a constitutional convention to be held just one month later. The convention met on the 4th day of July, 1864, adopted a proposed constitution, which, by the terms of the enabling act, was voted upon and approved by the people on the first Wednesday of the following September. As soon as the vote could be canvassed a copy of the constitution was transmitted to the President by telegraph, at a cost of more than $3,400 for the one dispatch. (We may observe here, in passing, that there has been material progress in the reduction of telegraph tariffs since that time.) By the terms of the enabling act the approval of the constitution was placed exclusively with the President.

On the 31st day of October President Lincoln issued his proclamation declaring Nevada admitted into the Union on an equal footing with the original States. Eight days later an election for State and county officers was held, and the newly elected officials assumed their duties on the first Monday in December. On the 1st day of February, 1865, Congress submitted to the several States the thirteenth amendment, and two weeks later it was ratified by the legislature of the new State of Nevada. Well may Nevada be called the battle-born State.

Born on the eve of battle, she took no time for infancy or childhood, but poured out the precious contents of her subterranean treasury with a free hand to the help of the Nation from the very hour of her birth.

I take it to be interesting in the discussion of this question to know that Nevada voted twice upon the adoption of its constitution. The first election, held on the 19th day of January, 1864, resulted in an overwhelming rejection of the instrument. Within 20 days thereafter Senator Doolittle, of Wisconsin, introduced a bill into the United States Senate authorizing the people of Nevada to try it again. It was voted on a second time and overwhelmingly carried, one of the main things contributing to the adoption of the constitution, to use the language of Thompson and West, in their History of Nevada, was the question of a purchasable judiciary.

In their work I find the following language:

There was another cause that exerted a powerful influence upon the public mind at this time, it being openly and with persistence charged by the papers that one of the supreme judges of the Territory neglected his duty and rendered decisions favorable to the "highest bidder for cash." The charge was never judicially affirmed or negatived, and we do not know that the press was warranted in its assertions, yet it presented a strong circumstantial case, so strong that about 4,000 names were signed to a petition asking the whole bench to resign. The document was printed with its names in the Territorial Enterprise, and filled six double columns of that paper. The people were called upon to adopt the constitution, and in this way get rid of this unpopular bench.

Thus do we see that the early settlers of Nevada were in favor of some sort of recall, even though that recall be effected by the adoption of a constitution.

The early settlers of Arizona and New Mexico were of the same stern "stuff" that characterized the early pioneers of all our western States. They were a sturdy, industrious, adventurous, and liberty-loving people who "blazed the trail" and carried farther westward the Stars and Stripes of this great Union. Nevada has no apologies to make for her part in our Nation's history. She has been the savior of the Union, and with her more than 100,000 square miles of territory, rich in precious metals, rich in agriculture, rich in horticulture, rich in undeveloped natural resources, she bids welcome to her petitioning sisters, Arizona and New Mexico, and bids them come in. And as for the initiative and referendum and the recall, Nevada is pledged to them, and has thus marked another chapter in her onward stride. It is extremely doubtful if there will ever be occasion to resort to the use of any of these remedies, and we hope that such will be the case; but if we do the machinery of the law is there to use, and there are enough independent and courageous voters in Nevada to set it in motion and remedy the evil, whatever it may be.

The "Battle-born" State I represent is so vast in area, so rich in natural resources, so productive in soil, so splendidly located, and so prosperous and progressive in all that tends to a higher plane of civilization that the entire people of the New England States could at this time find homes there with plenty of "elbow room." And as it is with Nevada, so will it be with Arizona and New Mexico.

Wake up, sister States of the East, the West, the North, and the South! Step aside a moment and let these two sisters come into the great galaxy of States. They are western States with western ideas, but peopled with a class of people whose achievements of the past are as naught compared with what they will be in the future. Two more western States to take their place in the Union and two more stars to add their luster to our Nation's flag.

Arizona and New Mexico.

SPEECH

OF

HON. EDWARD W. SAUNDERS,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 23, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration the joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona—

Mr. SAUNDERS said:

Mr. CHAIRMAN: We are in no sense the guardians of the people of Arizona and New Mexico, and they are not in anywise, in a state of wardship, or pupilage. It is not a part of our constitutional duty, or function, to undertake to afford to them any precise form of government, or to determine whether the organic laws which they have adopted, are wise, or unwise, judicious, or injudicious. So long as their governments, such as they are, respond to the one requirement of the Constitution, that they shall be republican in form and substance, we need not inquire further, or fret in spirit over the failure of the citizens of those Territories, to qualify for statehood, by adopting such a constitution as the conservative spirit of the East, which is ever timid of innovation, would approve. It is the disposition to cavil at details with which we are not concerned, that constitutes the fundamental error of attitude, on the part of many participants in this debate. Apparently they fear lest a vote to admit these States, unaccompanied by an elaborate explanation of the impelling reasons for that vote, will commit them to a formal approbation of the doctrines of the initiative, the referendum, and the recall. Some even maintain that it is our duty to prescribe the form in which the constitutions of those States shall be cast. This mistaken attitude is an inevitable sequel of the vicious practice of admitting States by enabling acts. There was not only no necessity in this instance, for an enabling act, but there are comparatively few occasions requiring enabling acts, and these acts, have, in the main, been utilized to compass partisan, and political ends. In their use, they merely serve to befog the situation, and introduce a vast amount of irrelevant matter. Enabling acts, con-

ceived and formulated for partisan advantage, are vicious in themselves, and vicious in their consequences. It is to their use, that we trace a large body of otherwise unnecessary judicial decisions, many of which were cited in the interesting argument of the gentleman from Illinois.

What does the Constitution declare in relation to the forms of government in the States? Merely that the United States shall guarantee to every State in this Union, a republican form of government. The enabling act heretofore passed for the admission of Arizona and New Mexico, is content to require that the constitutions of these Territories, shall be republican in form, as a condition precedent to admission to statehood. If this House had devoted itself to the one inquiry, proper to be made, in respect to the constitution of a State making application for admission into the Union, namely, as to the character of that instrument, whether republican or not, we would have abbreviated our deliberations to a remarkable extent. In the progress of this debate many able speeches, evincing great learning, and extensive research, have been made, but in large measure these speeches have been irrelevant, for they have been the explanations of an attitude which it was no part of our duty to assume. The sole question proper for our consideration and determination, is whether the constitutions of Arizona, and New Mexico are affirmatively shown to be republican in form. No speaker on this floor has been heard to assert that these instruments are not of the latter character. The gentleman from New York who has spoken with so much vigor in opposition to the recall, the initiative, and the referendum, has undertaken to establish by elaborate argument, a proposition that is freely admitted, namely that a Government in which the people legislate through the initiative, and referendum, is not a pure type of representative government. Granted. But it is popular government. It is a republican government in essence, and in practice. Even the gentleman from New York admits, that the constitutions of Arizona, and New Mexico, do not offend in the sense that they are un-republican.

But if these constitutions are republican, are we concerned to make further inquiry? These governments which they provide possess that form which the Constitution undertakes to guarantee. It is perfectly true, that when the people undertake to exercise a portion of their supreme power in the way of direct legislation, such a government, to that extent ceases to possess the representative character, but there is no provision of the paramount organic law which inhibits the people of the States, from the exercise of their supreme power in that manner, or which provides that a State government which loses its representative character in part, thereby ceases to be republican in form.

I have said that we are concerned to make one inquiry only in the discharge of our present duty. Such is absolutely the case. To say that we should go further, and challenge the right of the sovereign people to determine for themselves the precise form of republican government, under which they, and they alone, will be required to live, is to announce a proposition at war with our fundamental confidence in the absolute capacity of the American people for self-government. It is a truism that this is a Government of the people, but it is a truism that has been repeatedly declared in varying, but always emphatic forms. The Declaration of Independence is a sweeping arraignment of monarchical government, but its expressions of confidence in the people are even more sweeping and comprehensive, than its criticisms of monarchy. It declares that:—"All men are created equal;" that "they are endowed by their Creator with certain inalienable rights; that among these rights are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these things, it is the right of the people to alter, or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

Many States, in their Bills of Rights, announce in different phraseology, the same essential and fundamental proposition, that all governments derive their just powers, from the consent of the governed. That is but to say, that the one and only source of power, whatever form the exercise of that power may take, is the people. These declarations of popular sovereignty followed fast upon the Declaration of Independence. The constitution of Vermont (1777) declares that:—

The people of this State shall have the sole, exclusive and inherent right of governing, and regulating the internal police of the same.

Shall we undertake to deny the same right, to the people of Arizona, and New Mexico? The Bill of Rights of Virginia is even more emphatic:

Government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community. Of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness, and safety, and which is most effectually secured against the danger of maladministration. Whenever any government shall be found inadequate, or contrary to these purposes, a majority of the community hath an indefeasible right to re-form, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Who shall say that the people of these new States, peopled, as they are, with strong, virile, and progressive Americans, shall not have the right to try out the initiative, the referendum, and the recall, if they deem that these measures will be most conducive to their public weal? The Virginia Bill of Rights further declares that:—

All men, are, by nature, equal, free, and independent, and possess certain inherent rights, of which, when they enter into a state of society, they can not by any compact deprive, or divest their posterity, namely, the enjoyment of life, and liberty, with the means of acquiring, and possessing property, and pursuing and obtaining happiness, and safety.

Still further, it declares that:—

All power is vested in, and consequently derived from, the people.

The Maryland Bill of Rights says:

All government, of right, originates from the people, is founded in compact only, and instituted solely for the good of the whole.

The South Carolina constitution declares:

That this congress being a full, and free representation of the people of this colony, shall henceforth be deemed, and called, the General Assembly of South Carolina.

The New York Bill of Rights says:

This convention, therefore, in the name, and by the authority of the good people of this State, doth ordain, determine, and declare, that no authority shall, on any pretence whatsoever, be exercised over the people, or members of this State, but such as shall be derived from, and granted by them.

The Georgia constitution declares that:

We therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain, and declare, the following rules and regulations.

The Pennsylvania Bill of Rights declares that:

The people of this State shall have the sole, exclusive, and inherent right, of governing, and regulating the internal policies of the same.

The one thing common to these constitutions, and Bills of Rights, is the expression of supreme confidence in the people. So long as we recognize the people as the ultimate source of power, so long as we regard the declarations to that effect, as expressions of a fundamental verity, we are precluded from taking any position in respect to the admission of a new State, which is inconsistent with that attitude. To declare that the people of a State shall modify the government of their choice, as the price of admission to the Union, when that Government is confessedly republican, is equivalent to a vote of no confidence in the people. It is a measurable return to the aristocratic, or monarchical principle, that the people should be ruled, as opposed to the republican principle of popular sovereignty.

The Revolution was fought to establish the latter principle. The framers of the Federal Constitution, and of the constitutions of the several States, announced this principle in the most emphatic and comprehensive terms. They feared a reversion to the aristocratic, or monarchical type, but they did not fear the people, or seek to prescribe the mould into which their governments should be poured. So long as those governments were republican in form, they were content.

The provision of the Constitution, that the United States should guarantee to the States a republican form of government, was never intended to mean that the Federal Government should frame a government for a State, or create a government, or interfere with the people of a State, discharging the high duty, and exercising the sacred right, of formulating the fundamental rules under which they should enjoy life, and liberty, and pursue happiness. This is well expressed in Mr. John Randolph Tucker's work on the Constitution.

The word guarantee—

Declares Mr. Tucker—

does not mean to form, to establish, to create, to protect the States, that is the body politic, in its right to have a republican form of government. It defends the people against the interference of any foreign power, or of any intestine conspiracy, against its right as a body politic to establish for itself republican forms of government. To allow the guarantor to take the initiative, and under pretext of its duty as a guarantor, to impose a form of government upon the people of a State, would make this clause, intended for protection, an excuse for destructive invasion.

Now that is precisely what those gentlemen would do, who undertake to say to the people of Arizona, that they must strike from their constitution the provision relating to the recall of the judges, before they will be admitted to the Union.

I do not question that we have the power to impose such a requirement as a condition precedent, but this action would be an abuse of the situation. It is the imposition of a form of government on these people. It denies to them the right enjoyed in the present States, of enacting their own laws.

The Constitution imposes no curb upon the people of the States, in the adoption of their constitutions, and the enactment of their laws. Why should this body, merely because we possess the power of arbitrary rejection, undertake to restrain the people of these Territories from governing themselves in statehood according to the fundamental rules which they prefer to prescribe?

If the distinguishing feature of a republican form of government, is the right of the people to establish that government, then we are in conflict with that principle when we seek to interfere with that right, and prescribe the form of popular institutions.

Reverting again to the provision of the Constitution which guarantees a republican form of government to the States, I fail to find in the commentators, dealing with that clause of the organic law, any views at variance with those I have undertaken to express. Mr. Curtis declares, in his Constitutional History, that—

> The object of this provision, was, to secure to the people of each State, the power of governing their community through the action of a majority, according to the fundamental rules which they might prescribe for ascertaining the public will.

In his notes on the Constitution of the United States Mr. Sutherland states that—

> The distinguishing feature of a republican form of government, is the right of the people to choose their own officers for governmental administration, and to pass their own laws. By virtue of the legislative power reposed in representative bodies, and by the adoption of a constitution, the people limit their own power.
>
> The State here referred to, is a member of the Union, an organized people, or a community of free citizens, occupying a definite territory. This provision does not undertake to designate any particular government as republican, nor is the exact form, in any manner especially indicated.

The people of these Territories are as much entitled to admission to this Union, as any who have knocked at our doors during the past century. It is true that Arizona has undertaken to embody in her organic laws, certain details of progressive legislation which have aroused the antagonism of some Members from the older States. But what of it? Neither these gentlemen, nor their constituents, save by voluntary choice, will live under the constitution of that State. If we are satisfied with our own conditions, shall we undertake to limit in other communities, what is happily styled the "inspiriting program of progressive reform"? The State is the melting pot of political experiments. Out of the ferment of the Revolution came our present systems. But these systems have not endured in their primitive forms. They have been adjusted from time to time, to meet new conditions. Even in the East, most of our constitutions have been renovated, overhauled, and brought up to date. Progressive men are essentially eclectic. Progressive States are not afraid of innovations. They are not content to endure the ills with which they are acquainted, but are willing to make an effort for better things. Such communities are the "trying out grounds of our political system." The most recent convert to the progressive view, is the distinguished governor of New Jersey, who has discussed the subject with his usual felicity of phrase.

Each State—

Declares Gov. Wilson—

> is at liberty to develop its own opinion, to suit its reforms to its own life, to try this experiment, and the other, with its laws and institutions, in order that no hopeful program may be neglected, or fail of trial. It is very noteworthy that some of the most alert and progressive of our State communities, like those of several of our Western States, have set the pace for the country, have fortunately exercised their rights of independent choice in such a way as to blaze a trail for the more conservative States. In many instances they have made mistakes, no doubt, but the mistakes have been instructive and profitable to themselves and to the rest of the country hardly less than their successes have been. At any rate, whatever betide, they do not hold back dull and acquiescent and hopeless. They are no longer beating about in a nameless routine of legislation without large plan or program, but they are diligently setting themselves to face the circumstances of a new age, adjusting the conditions of their life to the new forces, checking those things which are sinister and menacing and permitting those things which are honest and hopeful and full of legitimate force.

But after all, the initiative, the referendum, and the recall are not untried novelties. The men who oppose them on this ground are either ignorant of history, or reject with contemptuous disdain, the experience of many communities. The initiative, and referendum, have been adopted by the States of Oregon, Oklahoma, Arkansas, South Dakota, and Montana. The recall as applied to all officers, is in force in Oregon, and Oklahoma.

Last year, the great State of California elected a progressive legislature. The work of this legislature was highly commended by the gentleman from that State, Mr. KAHN, in the course of his argument against the referendum, initiative, and recall. Perhaps his attitude of opposition to these principles, explains why he failed to inform us that the same legislature, by practically unanimous vote, submitted an amendment to the constitution providing for the application of the recall to all the officials of that State, judicial, and otherwise.

The principle of the recall was asserted in the earliest days of the Republic. It was embodied in the first constitution of Massachusetts, and is found in article 8 of that instrument, as follows:

> In order to prevent those who are invested with authority, from becoming oppressors, the people have a right, at such periods, and in such manner as they shall establish in their form of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections, and appointments.

Thomas Jefferson favored the application of the same principle to the Delegates to Congress. In Jefferson's Notes on Virginia, we find the following:

> The Delegates to Congress shall be appointed by joint ballot of both houses of the assembly, for a term not exceeding one year, subject to being recalled within the term, by joint vote of both of said houses.

The constitution of New Hampshire of 1784, provides that the Delegates to Congress may be recalled at any time within the year, and others chosen in their stead.

These are respectable authorities, and if it is objected that this recall applies to officers other than the judiciary, the sufficient answer is, that we are concerned with the power, and not the propriety of its application. It is for the people of the communities affected, to determine to what officials, and under what circumstances, the recall shall be applied. But the explanation of the failure of our forefathers to apply the principle of popular recall, to the judges, may be found in the fact that the popular election of judges is an innovation. Recall by popular vote would hardly have been applied to appointive officials. Many of the States had, and now have, a system of recall for the judges that is as drastic, as complete, as expeditious, and as susceptible of abuse, as recall through a popular election.

The constitution of Georgia of 1798, provides that the judges of the supreme court, shall be elected for the term of three years, removable by the governor, on the address of two-thirds of both houses for that purpose, or by impeachment, and conviction thereon.

The constitution of Virginia provides, that the judges of the State may be removed by joint action of the two branches of the general assembly, a majority of the membership of each branch concurring.

The constitution of Maryland, apparently with the view of preserving the integrity and uprightness of the judges, by subjecting them to legislative removal, provides that they may be removed by the governor, on the address of two-thirds of the general assembly.

Section 33 of the bill of rights of Maryland, of date 1776, is in the following terms:

> That the independence and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights, and liberties of the people. Whereas the chancellor and judges ought to hold commissions during good behavior; and the said chancellor and judges shall be removed for misbehavior, or conviction in a court of law, or may be removed by the governor upon the address of the general assembly: *Provided* That two-thirds of all the members of each House, shall concur in such address.

The constitution of Texas is not satisfied to remove the judges by the *orderly process* of impeachment, but provides that they may be removed by the governor, on address from the legislature, upon grounds not sufficient for impeachment. This provision, puts the judges of that State in a class apart from other officials, and subjects them to a procedure that is even more summary, and more liable to objection, than recall by popular vote. The exact language of the constitution of Texas relating to the recall of the judges is as follows:

> The judges of the supreme court, and district courts, shall be removed by the governor, on the address of two-thirds of each house of the legislature, for willful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment.

Other States provide for the recall of the judges by legislative vote, or by the governor, on the address of the legislature, but the illustrations given, suffice to show that the recall of judges through the medium of a popular election, is after all, no great innovation. The recall is merely an exercise of popular sovereignty, and whether it is in one form, or the other, whether by legislative action, or popular vote, is a matter for the determination of the people affected.

In all reason, this House might as well undertake to proceed against the State of Texas on account of its constitutional provision relating to recall by the legislature, on grounds insufficient for impeachment, as to refuse to admit Arizona as a State, on the ground that she prefers to recall her judges by the method of popular election.

The referendum is no new thing in American political life. On the contrary it has been utilized for a variety of purposes. A few of these uses will be cited. It has been used to determine whether a State, or its subdivisions, should incur indebtedness. It has been used to fix the location of State capitals,

and in many instances, to determine the location, or removal of county seats. At the time of the retrocession of a part of the District of Columbia, Congress provided for a referendum, by submitting the proposition to the electors, and arranging the machinery for the election. In many States, certain taxes can not be increased, unless submitted to, and authorized by popular vote. A variety of local matters are subjected to a referendum, in practically every State of the Union. The primary for the nomination of State officials, is really a form of referendum. In many States, it is a part of the constitution, that no act of the legislature providing for corporations, or associations possessing banking powers, shall be effective until submitted to the people at a general, or special election, and affirmed by a majority of the voters. Conspicuous among these States are Wisconsin, Ohio, Kansas, Missouri, and Iowa. However the most notable, and authoritative illustration of a referendum, is the submission of a constitution to the people of a State for ratification, or rejection. If this practice is sound in principle, and capable of support by satisfactory argument, it affords a sufficient answer to all the objections commonly urged to the application of the referendum to ordinary legislation. These objections take varied forms. Sometimes it is said, that constitutions deal in general principles, while the enactments of ordinary legislative bodies abound in details, and nice distinctions, which the voters in mass will not appreciate, or consider with discriminating judgment.

But the modern constitution is not the brief and compact instrument of other days. It goes into details, and actually legislates, in the ordinary sense of the term. The entire instrument is submitted to the voters for their consideration and final action. Unless this process is a solemn farce, or sublimated mockery, it is difficult to follow the course of that reasoning which, admitting that the people are competent to accept, or reject an elaborate constitution of vital interest to themselves, denies to the same electorate, the capacity to strike out one section of a legislative act, or to pass on the merits of a statute as a whole. It is a curious thing that in the course of this debate, the bulk of the criticism directed against the referendum, and the recall, in their modern forms, has come from Republican speakers, though in the main, Republican States have furnished an illustration of their workings. The gentlemen who would put a strait-jacket about the States, or compel them to cut their garments according to the patterns which they would furnish, forget that it is a fundamental proposition of right, that the people of the several States, may try out new forms of local government, whenever they are so disposed, provided these forms are republican in character. Time alone, and not the severity of present criticism, will determine the value of these experiments. The Federal Constitution, and the government which it affords, were an experiment, the success of which was gravely doubted. That Constitution was the subject of bitter contemporary attack, and narrowly escaped rejection. Who is prepared to say, that in time, the initiative, the referendum, and the recall, may not establish themselves as potential agencies of civic regeneration, and, like the Federal Constitution, endure when their critics are forgotten?

The gentleman from New York, and other gentlemen from the older States of the East, who apparently think that no good thing, in the way of new and progressive legislation, can come out of the West, quote at length from the fathers of the Republic, from Hamilton, Marshall and others of the same school, to show that the recall was not in the contemplation of these statesmen, and if offered to them, as a substantive proposition, would have been rejected. Granted. There are many modern innovations that these statesmen would reject. Undoubtedly they would view with extreme distrust, the application of the recall to the judges, and the Oregon plan, would be a chamber of horrors to them. It would be anathema maranatha, to Hamilton, or to Marshall. But the Member from New York, or the Member from any other State which elects the judges by popular vote, should hesitate to cite these gentlemen as authority against the recall. For with equal propriety, they may be cited as authority against an elective judiciary. In the contemplation of those statesmen it was an abhorrent, almost an unthinkable proposition, that a judge should hold his office, at what they deemed would be the caprice of the electorate, and at stated intervals be required to submit his claims for reelection, to a popular vote. The rock upon which they builded the system of the Federal judiciary, was an appointive judiciary with a life tenure. In no other way, did they conceive that a fearless, self-respecting, upright, and efficient body of judges could be secured. But contrary to the anticipations of our forefathers, that plan has not been followed. A radically different system of selection has been approved in many Commonwealths. In a number of States, notably New York, the judges are elected for fixed terms by popular vote.

The Representatives from those States agree in applauding the ability, the character, and the efficiency of their judges. The fathers are not good authority against innovation. In their day, they were radical and progressive in many directions. But they did not scale all the heights, and sound all the depths of political wisdom, in the construction of our Constitution. That instrument deserves all the commendation of which it has been the subject. Still, it is not in itself, an argument against new things, nor has it protected the country against innovations justified by later progressive thought. It has been sufficient for our purposes, because it has been added to from time, to time. Even in this Congress, we are preparing a further amendment. It has been sufficient for our purposes, because it has been interpreted so as to make it mean, not what was in the conscious minds of the fathers, but what has been deemed necessary for an expanding civilization, and a progressive people, operating under conditions which were not within the contemplation of the men who framed the Constitution. By interpretation we have written into the Constitution, and thereby added to the Constitution, powers which we know, as a matter of history, were never consciously intended to be afforded by the convention which prepared our fundamental law. If the men who are quoted against the recall, and the referendum, had afforded an instrument so complete in itself, as to endure to the present, without addition in the way of amendment, or interpretation, so that in the test of time, their theories had been continuously sustained in all directions, we might well hesitate, even in the light of our own experience, to go counter to their views.

But in other directions than in the election of judges, or the application of the recall, we challenge the finality of their attitude. It was a cherished doctrine of our forefathers, that Representatives in Congress should be elected by the people, and Senators by the legislatures of the several States. With wonderful unanimity we are now agreed, that Senators as well as Representatives, should be elected by the people, thus setting at naught a feature of the Constitution that was deemed vital by its framers. If we do not hesitate in this respect to oppose our judgment to the judgment of our forefathers, if numerous States have not hesitated to break away from the ancient theory that judges should be appointed for life, and have proceeded to select them by popular election, in contempt, almost, of the views of Hamilton and of Marshall, who would have despaired of the Republic, if such a system of selection had been seriously proposed in their day, why should we condemn in advance of trial, as unwise, and almost as unrepublican, the referendum, and the recall, merely because by implication, necessary implication if you wish, it is considered that the same authorities who were opposed to the popular election of judges, would be opposed to this exercise of popular authority?

Mr. Chairman, environment is a wonderful thing in determining the attitude of the individual toward policies which are not within his personal experience. Gentlemen hailing from States which have repudiated the views of Madison, of Hamilton, and of Marshall, in respect to the selection of judges, and who applaud that departure from ancient theory, appear unwilling to allow progressive communities to make further trial of more advanced policies.

In support of that attitude they appeal to authorities which the experience of their own communities has measurably rejected. Fixed in the belief that the systems with which they are familiar, are the best that the wit of man has devised, they reject the experience of others, and are unwilling to allow the people of Arizona to make trial of a policy which Oregon, and Oklahoma indorse, and which California is preparing to adopt. Surely the actual experience of these States can be set against the gloomy forecast of theorists who have limned such fearful pictures of the debasing, and destructive effect of the initiative, the referendum, and the recall, upon the communities that hazard their use. Why do these critics, these prophets of evil, ignore the experience of the States which have experimented with these policies, just as other States have tried out the experiment of electing their judges by popular vote? Why do they ignore the testimony that comes from Oregon, from Oklahoma, from Arkansas, from Montana, from South Dakota?

The Representatives from these States are agreed that under the test of actual trial these policies have vindicated the claims advanced in their behalf. So far from proving debasing, or destructive agencies in their application to political conditions, they have energized public opinion, stimulated endeavor, clarified the muddy waters, and raised the general tone of public life. [Applause.]

Why is it that these gentlemen who would deny to Arizona the right to make trial of the recall, are moved to antagonism by the pictured horrors of their imaginations, in disregard of

the evidence which the experience of other States is ready to afford them?

Mr. Chairman, when I listen to the commendations that are often lavished in this body upon the Federal Constitution, I wonder whether the gentlemen who indulge in these glowing panegyrics, have ever perused the contemporaneous discussion of that instrument. If they have, they found vituperation as bitter, and forecasts as discouraging, as have marked the arguments of this debate in opposition to the referendum, the initiative, and the recall. Indeed, in the above respects, the present debate is far more temperate than the arguments which were directed against the Federal Constitution, by its untiring opponents. In my own State, that great champion of popular rights, the tongue, as Jefferson was the pen, of the Revolution, the immortal Patrick Henry, was a conspicuous antagonist of the proposed Constitution. He attacked it with caustic criticism, and unfailing logic. He declared that he saw poison under its wings. He denounced it as destructive of liberty, and of the rights of the States. He fancied that it contained the most abhorrent monarchical, and aristocratical tendencies which, day in and day out, he denounced in vivid, flaming rhetoric from his place in the Virginia convention. Yet in the crucible of experience, this great experiment has made good, and now we hear only the pæans of praise in its favor.

The voice of detraction is hushed. Why not abide by the verdict of time, on the value of the initiative, the referendum, and the recall? Why not confine ourselves to the simple discharge of our constitutional duty in this behalf, and having ascertained that the constitutions of these proposed States, are republican in character, leave to the people of those communities, the determination of the wisdom, or unwisdom of the contents of those instruments? How and why is it a part of our present duty, in our relation to the organic acts of these States, to announce that we do not agree with the ideas of the people of Arizona, or the people of New Mexico, in the formation and construction of those acts? How do these acts concern us? How do they touch us, or the people whom we represent? The sole duty proper to be discharged by us under the Constitution, is to determine whether a republican government is provided by the constitutions submitted for our consideration. I repeat, we are not concerned with the wisdom, or unwisdom of those instruments. The people of these States are a virile, sturdy stock, not unused to self-government, imbued with a profound love of American institutions, and attached to the principles of liberty, as they are known and enjoyed in this country alone. If they have undertaken to formulate constitutions representing the advanced political thought of the day, and to experiment with policies which they conceive will promote their prosperity and happiness in the highest degree, why should we seek to deny them the right to make this experiment? Why is it that gentlemen who will not be vexed by these constitutions, deem it necessary to take the floor in this debate, and enter their solemn protests against allowing the people of Arizona to live under the laws which they approve? [Applause.]

Mr. Chairman, in the last analysis, opposition to the right of a State to adopt the initiative, the referendum, and the recall, is an attack upon the capacity of the people of that State for self-government. The people are competent, forsooth, to pass upon a constitution loaded with details, and prescribing the fundamental rules under which life may be enjoyed, and happiness pursued, but it is unwise to refer to them through the referendum, an entire legislative act for approbation, or rejection. The people are competent to determine whether they will assume the burden of a public debt, or increase their taxes for school, or other purposes, or fix the seat of their government, or cede away a portion of their territory, as was done in the case of the District of Columbia, but in the view of the opposition they are incompetent to determine whether a single clause should be stricken from a statute submitted for consideration. There is a great question here. We are not concerned with passing on the merits of the recall, or the referendum. They are not in issue. The real question is, whether the people of Arizona, and the people of New Mexico, who possess the supreme power to govern those communities through the action of a majority, shall be afforded the authority now enjoyed by the present States of the Union, to prescribe their own fundamental laws. It is no part of our present duty to approve the constitutions of Arizona, and New Mexico. Those Territories will be admitted under the pending resolution, not under the enabling act, which, for partisan purposes, prescribed that their constitutions should be approved by the President, as a condition precedent of admission. Fairly considered, however, even this provison for approval, should not be construed to mean more than a finding that the instruments are republican in their character. If this is ascertained in the affirmative, the requirements of the enabling act should be considered to be discharged. But under the joint resolution now pending, this question of approbation is not presented.

Mr. Chairman, if the opponents of the referendum, and the recall were able to furnish some plausible argument, or persuasive authority, to show that these policies are unrepublican, or contrary to the paramount law, their opposition would take on a more formidable character. But the precedents are all against them. No court has ever held, that a referendum, provided for in a State constitution was in conflict with the law of the land. In the case of Kadderly *v.* The City of Portland (44 Oreg., p. 118) the initiative and referendum amendment of that State was drawn in question, and upheld. A citation from the opinion in that case will be of interest.

> Nor do we think the amendment void because in conflict with the Constitution of the United States, Article IV, section 4, guaranteeing to every State a republican form of government. The purpose of this provision of the Constitution is to protect the people of the several States against aristocratic and monarchical invasions and against insurrections and domestic violence and to prevent them from abolishing a republican form of government. (Cooley, Const. Lim., 7 ed., 45; 2 Story, Const., 5 ed., sec. 1815.) But it does not forbid them from amending or changing their constitution in any way they may see fit, so long as none of these results is accomplished. No particular style of government is designated in the Constitution as republican, nor is its exact form in any way prescribed. A republican form of government is a government administered by representatives chosen or appointed by the people or by their authority. Mr. Madison says it is "a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior." (The Federalist, 302.) And in discussing the section of the Constitution of the United States now under consideration he says: "But the authority extends no further than to a guaranty of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guaranty for the latter. The only restriction imposed on them is that they shall not exchange republican for antirepublican constitutions." (The Federalist, 342.) Now, the initiative and referendum amendment does not abolish or destroy the republican form of government or substitute another in its place. The representative character of the government still remains. The people have simply reserved to themselves a larger share of legislative power, but they have not overthrown the republican form of the government or substituted another in its place. The government is still divided into the legislative, executive, and judicial departments, the duties of which are discharged by representatives selected by the people.
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> 8. Under this amendment, it is true, the people may exercise a legislative power, and may, in effect, veto or defeat bills passed and approved by the legislature and the governor; but the legislative and executive departments are not destroyed, nor are their powers or authority materially curtailed. Laws proposed and enacted by the people under the initiative clause of the amendment are subject to the same constitutional limitations as other statutes, and may be amended or repealed by the legislature at will.

Again in the case of Kiernan *v.* The City of Portland (112 Pac. Reporter, p. 402) the Oregon plan for direct legislation, was sustained, as will appear from the following extract from the opinion.

> It is difficult to conceive of any system of lawmaking coming nearer to the great body of the people of the entire State, or by those comprising the various municipalities, than that now in use here, and being so we are at a loss to understand how the adoption and use of this system can be held a departure from a republican form of government. It was to escape the oppression resulting from governments controlled by the select few, so often ruling under the assumption that "might makes right," that gave birth to republics. Monarchical rulers refuse to recognize their accountability to the people governed by them. In a republic the converse is the rule; the tenure of office may be for a short or a long period, or even for life, yet those in office are at all times answerable, either directly or indirectly, to the people, and in proportion to their responsibility to those for whom they may be the public agents, and the nearer the power to enact laws and control public servants lies with the great body of the people, the more nearly does a government take unto itself the form of a republic—not in name alone, but in fact. From this it follows that each republic may differ in its political system, or in the political machinery by which it moves, but so long as the ultimate control of its officials and affairs of state remains in its citizens it will, in the eye of all republics, be recognized as a government of that class. Of this we have many examples in Central and South America.
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> It becomes, then, a matter of degree, and the fear manifested by the briefs filed in this case would seem to indicate, not that we are drifting from the secure moorings of a republic, but that our State, by the direct system of legislation complained of, is becoming too democratic, advancing too rapidly toward a republic pure in form. This, it is true, counsel for petitioner does not concede, but under any interpretation of which the term is capable, or from any view thus far found expressed in the writings of the prominent statesmen who were members of the Constitutional Convention, or who figured in the early upbuilding of the Nation, it follows that the system here assailed brings us nearer to a State republican in form than before its adoption.

The constitution of Oklahoma contains a provision relating to the initiative, the referendum, and the recall, which in all respects is followed by the Arizona constitution. The constitutionality of the Oklahoma constitution was assailed, and sustained in ex-parte Wagner. (21 Okla., p. 33.) There are still other cases, needless to be cited, which are accordant with those given. Mr. Chairman, the value of these policies, of these departures from the ancient way, will be determined hereafter. For the present, they are on trial, but the evidence in their behalf, tendered by the States where they are in active operation, may not be lightly rejected. It is not enough to assail them with barbed invective, or denounce them as un-American, or to prophesy baleful effects from their use. Many projected mea-

ures have been attacked in this fashion. Within our experience in this body, within our experience in the legislatures of the several States, propositions of legislation have been denounced as vicious in theory, and destructive in effect, in a word, as wholly mischievous. Yet we have lived to see that legislation go into operation, nay not only lived to see it go into operation, but lived to see it justify the highest expectations of its friends and supporters. [Applause.]

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. SAUNDERS. Yes.

Mr. SIMS. In essence and in effect, is there any very great difference in removing a case from a judge on account of the charge of feeling of prejudice or interest, and in removing a judge from an office when a majority of the people have lost confidence in him?

Mr. SAUNDERS. None whatever. If there is any one public official who ought to be recalled, and to whom therefore the system would be most appropriately applied, it is the corrupt judge. [Applause.] While there is no occasion for this body as a whole—or its individual Members—to express their attitude toward the recall, yet I may say in this connection that the proposed use of this agency to carry out the popular will does not fill me with apprehension for the future of the Republic. Even in the conservative State from which I hail, there is a form of judicial recall as expeditious, as effectual, and as easily set in motion, as the recall of judges by popular election.

There is no judge in Virginia, not even the judges of the supreme court of that State, that may not be removed by a concurrent vote of a majority of the two branches of the general assembly. While the constitution requires the cause of removal to be assigned, the general assembly alone determines the sufficiency of that cause. There is no right of appeal. So that after all, in a sense, the judges hold their offices at the will of the legislature, the only restraint upon that body being the compelling force of an intelligent public opinion. Under that system of recall more than one judge has been removed in Virginia. Still I venture to say that in character, independence, and learning the judges of that State are second to none.

The gentleman from New York [Mr. LITTLETON] seemed to think that whenever we depart from the orderly procedure of impeachment, we strike at the independence, nay the very life of the judicial system of the country. To him, it is inconceivable that a judge should be removed by any tribunal, or by any procedure—save that of impeachment. Strange to say, the great State of Texas, and I use the term advisedly, expressly provides in its constitution, that judges may be removed on the address of the legislature, for causes that would not be sufficient for impeachment, thus formally recognizing in its organic law, apparently with reference to the judges alone, that conditions may exist when offending judges who would not be subject to impeachment, should be removed by a procedure far more expeditious in its application, and more susceptible of abuse, than the much-criticized method, of popular recall. [Applause.]

Mr. Chairman, the people of Arizona, and New Mexico, have seen their aspirations for statehood, made the football of party politics. It is the shame of the Republican Party that such has been the case. Long since those communities would have been erected into States, but for selfish, partisan, and unworthy considerations. To-day they respond to every test proper to be applied. They have the area, the productivity of soil, the resources, and the form of government, sufficient to entitle them to admission into this Union. No one in this debate has dared to assert, much less sought to maintain, the proposition that the features of their law which have been the subject of such bitter attack, are incompatible, or inconsistent with republican institutions. The people of those Territories, under great stress, have exhibited the possession of the essential qualities, of moderation, and restraint. The time of their reward is at hand. True it is, that we can prescribe the terms of their admission, and as a condition precedent, require them to rewrite their constitutions, and expunge the offending clauses. For the time being we enjoy that authority. But while it is well to have a giant's strength, at times it is tyrannous to use it. What shall we say to the people of these communities, who tender to us the constitutions of their own choice, the children of their thought, and of their brain, and crave admission to this great sisterhood of States?

Shall we deny to them the possession of wisdom, and capacity to manage their own affairs, and in time to correct an error, if one has been admitted, or shall we admit them to full fellowship with us, and wish them godspeed in the new rôle of statehood, in which in their own way, and in their own time, they must work out their salvation, and achieve their proper destiny?

Duty and patriotism alike suggest to us the latter action.

The Wool Schedule.

SPEECH

OF

HON. RALPH H. CAMERON,

OF ARIZONA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 20, 1911.

On the bill (H. R. 11019) to reduce the duties on wool and manufactures of wool.

Mr. CAMERON said:

Mr. SPEAKER: We have in Arizona a sheep population of about 1,000,000. There are 67,000,000 sheep in the United States, so we have about our due proportion of the wool bearers of the Nation. But in proportion to population the sheep industry is vastly more important to us than to the country as a whole, for there are several sheep to every inhabitant of Arizona, while, with regard to the country as a whole, there are more people than sheep.

Now, the sheep business is not one of those monster industries in which Arizona surpasses the world. We do not throw down the gauntlet in this matter as we do in the production of that great metal, copper, upon which the industries of the world so largely depend, and defy any region on earth to compete with us. But grazing sheep is a sturdy, wholesome industry that is, year by year, providing good clothes for the multitude and furnishing wholesale meats for its dinner table. We, in Arizona, have a great many people engaged in it exclusively, and more incidentally. Not the least important of our sheep raisers are the Navajo Indians, the most admirable wards of Uncle Sam, whose flocks roam over otherwise worthless parts of three States.

The business of sheep raising is one to be highly commended. Tending flocks was one of the first avocations to which man ever set his hand. Since the time of Abraham it has been a mainstay of civilized man, and will always continue to be important. The open lands of the West lend themselves to it, but the claims of benefits derived from it are not peculiar to the West. Illinois raises more sheep than does Arizona, Michigan more than Idaho, New York more than Washington, Maine more than Louisiana. There is not a State in the Union that does not produce great numbers of sheep. There will never come a time when the industry will die anywhere. The oldest communities in the world are still raising sheep. The mutton chop of the Britisher is still a byword the world around. All communities profit directly by a production of sheep, and all should be interested in maintaining the profits that may be derived from the industry.

And the industry depends upon tariff protection. Its history is sufficient proof of this. The law placing the present tariff on wool was passed in 1897. At that time, according to the report of the Secretary of Agriculture, there were 36,819,000 sheep in the United States. The business was at its lowest ebb. Each sheep was worth but $1.82. After a tariff protection of the sheep business that has lasted but 13 years we are able to make an entirely different showing. The latest census of sheep, still in accordance with the Department of Agriculture reports, shows 57,216,000 sheep in the country. This is an increase of 50 per cent in the number of sheep. Each sheep is worth $4.08 as against $1.82. Where the industry inventoried $67,021,000 in 1897 it is now worth $233,664,000, an increase of 248 per cent.

In addition to this, the figures show that in 1897 the Nation was annually consuming 8,000,000 mutton, while to-day the annual consumption is 16,000,000. Yet the industry has not had time to really show itself under protection, for it requires many years to develop a business that depends upon the breeding of generations of animals. But the indications are so promising that it seems reasonable to hope that within a few decades, were the protection continued, the Nation would be producing all the wool its manufacturers need and in addition be furnishing great quantities of meat, for a lack of which there seems a good prospect of great deprivation in the future.

With these indications of development shown in this short time, Mr. Speaker, would it not seem wise to continue this protection for awhile and await results?

Now, Mr. Speaker, there is a great deal of buncombe in this claim that the tariff on raw wool affects the price the man on the street pays for a suit of clothes. The price of the raw wool that goes into a suit of clothes is so small as compared with the profits of the middlemen that it hardly enters into the consideration. The average suit of clothes, such as you and I are

wearing to-day, contains 3¾ yards of cloth that weighs 12 ounces to the yard. To supply the raw material in this suit would require 8 pounds of raw wool as it comes from the sheep. This wool is now selling at 16 cents a pound. The woolgrower is therefore receiving about $1.30 for his raw material that enters into the making of a suit of clothes such as we are this year wearing. At present wool prices it is practically impossible to put $2 worth of wool in a summer suit.

The amount of protection that this $2 worth of wool bears has an almost imperceptible effect upon the ultimate cost of a $20 or a $40 suit of clothes. Juggling that price one way or another will have no effect upon the price the consumer pays for his suit of clothes. But the profits on this $2 worth of wool are so slight that a few cents one way or the other will determine whether or not the sheep man can continue in business. This has been shown by the absolute history of the industry in the past.

Nothing could have been more unfortunate than the introduction of a measure affecting the price of wool at this particular time. The sheep gives up his harvest of wool in the spring of the year. The harvest is about garnered by this time. The production of the wool of the Nation is just now thrown on the market all at one time. This proposition to revise the wool schedules comes at the exact time when the wool crop must be sold. The buyers do not know what is going to happen. They refuse to buy at prices that would otherwise be profitable. The agitation is preventing the American sheep man from realizing upon his year of work. He is being driven to the wall by the agitation of a question that should never be touched. He is being done a great injustice.

It is no mean industry that is thus being stifled. For every sheep that is raised in this country the grower pays an average of $1 in wages alone, and the aggregate of labor employed directly in the business of growing sheep amounts to $60,000,000 a year. There are 150,000 people in the United States engaged directly in the care of sheep. There are 700,000 people in the country who year after year produce sheep. There are $233,000,000 invested in sheep in this country and $300,000,000 more invested in lands upon which they are grown. All this investment is imperiled by the present agitation.

Aside from the demonstrated fallacy of the claim that the price of raw wool is responsible for the high price of clothing, aside from the recognized benefit that a great sheep industry would bring to this country, including the added advantage of an increased meat supply, there may be shown a direct advantage to the consumer in having his clothes made of American-grown wool. That advantage accrues from the fact that these clothes will last longer. Great students of fabrics recognize the superiority of American-grown wool. American wool is stronger, works better, wears better than imported wool. The Government recognizes this, and in letting all its contracts specifies that American wool shall be used. When it calls for great quantities of clothing for the men of its Army or its Navy the Government requires American wool. If the clothes of Americans were made of their own wool, they would be better clothes. If the sheep industry were given an opportunity, it would soon be producing enough wool to supply all the clothes that America uses. Why not give this industry of the people a chance?

Now, Mr. Speaker, there is yet another phase of the sheep business that should appeal to those who look to the future from the broad standpoint of progress. Half of the land of the Nation is almost worthless. It is not to-day being farmed, and will never lend itself to farming. The old farms of the East are being deserted. The dry lands of the West and the mountain regions may never be used for the planting of crops. Yet all of these will remain to the end of time adaptable to the grazing of sheep. The only revenue that they may ever yield to the generations to come will most likely be due to the flocks that graze upon them. Under the feet of these mild-faced creatures, that have been the companions of man since time began, they may go on through the ages producing wealth.

Even those farms that are producing the crops of the Nation are ever benefited by the tread of live stock. The preservation of the fertility of these farms is more aided by the feeding of live stock than through any other process. Those fields that are sapped of their fertility by the long-continued harvesting of crops, that take always from the soil and return nothing, may be restored to their virgin productiveness by grazing sheep upon them and putting back in the soil the properties that are needed. There is a rational conservation in sheep raising from one end of the country to the other. There is a possibility of building up an industry of such proportions that the present scope of it will seem infinitesimal in proportion.

Let us not disregard all these possibilities because of a cry that the sheepman's share in the $2 that goes in raw wool into the making of a suit of clothes is a burden on the public. It were better to spend our energies in seeking the real burden than crying wolf over a fear that obviously does not exist.

Eulogy on the Late Hon. John W. Daniel.

MEMORIAL ADDRESS
OF
HON. JAMES S. SIMMONS,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 24, 1911.

On the following resolution (H. Res. 223):

"*Resolved*, That the business of the House be now suspended that opportunity may be given for the tribute to the memory of Hon. JOHN W. DANIEL, late a Senator from the State of Virginia.

"*Resolved*, That as a further mark of respect to the memory of the deceased, and in recognition of his eminent ability and illustrious public services, the House, at the conclusion of these memorial services, shall adjourn.

"*Resolved*, That the Clerk communicate these resolutions to the Senate.

"*Resolved*, That the Clerk be instructed to send a copy of these resolutions to the family of the deceased."

Mr. SIMMONS said:

Mr. SPEAKER: Nothing has occurred since my membership of this body which has filled my heart with such profound grief as the death of Senator JOHN W. DANIEL.

I have listened to-day with the keenest interest to the loving words that have been spoken of him by my colleagues on this floor, and I feel that such words have come from hearts that beat in sore affliction over the loss of a life which was not only dear to the people of his native State, but an irreparable loss to all of the people of our Nation.

For many years I was a resident of the great State of Virginia, residing in the sixth congressional district of that Commonwealth. The first vote I ever cast for a candidate for Congress was given to JOHN W. DANIEL. The many years of my residence in his district gave me the opportunity to know him well, and therefore I could not refrain from coming here to-day and joining my colleagues in paying a tribute to his memory.

I have never known a man in public life who was so universally idolized by the people as Senator DANIEL. His sweetness of disposition, purity of life, and nobility of character made him the ideal citizen, statesman, and patriot.

The great State of Virginia has furnished the Nation many illustrious men, whose achievements in public life have covered them with a halo of glory, but the memory of the life and influence of Senator DANIEL will ever record him a position in that Commonwealth as one of the first among the greatest, one of the highest among the best.

In my early life spent in Virginia I learned to idolize him, as did all of the people of that Commonwealth, and my love and affection for him has ever increased as his rise to position and fame.

So great has been the confidence of the people of Virginia in his wisdom and judgment, so profound their admiration for his intellect and statesmanship, so loyal their affection for his stainless character, that he has, for a generation, been the friend and mentor of all.

His death meant a personal loss to each of us. His ability, his devotion to the country, his high character we love to recall. He was beloved by all who knew him, and to those of us who serve in this body his death leaves a place in our ranks which can not be filled.

His ambition was to serve his country according to his highest standard of duty, and he died as he had lived, faithful to the people to the last, leaving a name that will hereafter always be found in the list of the ablest, the most useful, and most honored of its citizens.

By precept and example he contributed to the virtue and morality of every circle he entered; truth, right, and justice were always present with him. But he lives not alone in the loving hearts of friends and families, but in the blessed influence he left behind, which will help to make in his own image the lives of those who come after him. His wisdom, eloquence, and powers of argument were unsurpassed by any man that I have ever known; in fact, his eloquence and earnestness were simply irresistible; and I have never known a public speaker who could more effectively charm and delight an audience than Senator DANIEL. His life has been safely entwined within the affectionate gratitude and loyal remembrance of everyone who knew him.

New Mexico and Arizona.

SPEECH

OF

HON. MOSES P. KINKAID,

OF NEBRASKA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 22, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration the joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona—

Mr. KINKAID of Nebraska said:

Mr. CHAIRMAN: I have not had the pleasure of hearing all the discussion upon this very important question. I have heard a number of very excellent arguments for and against the different provisions in the proposed constitutions for the two prospective States. Each time I have heard a presentation of any Member's views, I have felt more diffident about speaking myself. I am not going to speak now so much for the purpose of throwing further light upon the questions involved, because very much light has certainly been shed by the strong arguments made for and against the proposed constitutions, but rather to explain the vote or votes I shall express. Whatever I may do upon preliminary matters, amendments, and so forth, my vote shall not ultimately stand in the way of the admission of these two Territories into the Union. In fact, I desire to see them admitted. Any vote apparently to the contrary which I shall announce will be for the purpose of expressing my sentiments in opposition to objections I find to parts of either of the proposed constitutions.

Mr. Chairman, it is contended by many on the majority side that the constitution now offered to the Congress for New Mexico is too conservative with respect to amendments, while, on the other hand, it has been argued, mostly by minority Members, that the proposed constitution for Arizona is too wide-open, too radical, in regard to making amendments; that amendments thereto may be too easily made. I am frank to say that I concur in this view as to the constitution proposed for Arizona. But, Mr. Chairman, right here I desire to disavow my purpose to discuss this statehood question from a partisan standpoint. I think we should rise above partisanship considerations in our discussions of matters, which are so important and have so much to do with the permanent welfare and interest of our common country.

I congratulate the people of New Mexico upon the implied compliment in effect paid them by the majority report of the committee that they are too conservative in regard to amending their constitution. I regard it as a civic virtue to be conservative about amending constitutions. I think it speaks well for these progressive citizens of the West, of this soon-to-be new State, that they are conservative in regard to amending their constitution. It indicates that they expect their constitution to be in a large measure permanent. They expect it to be something to go by, and they would not depart inconsiderately and hastily from the principles of their fundamental and supreme State law.

I do not indorse every feature of the proposed New Mexican constitution; I do not approve fully of the provisions relative to the facility of amendment. On its face there are some things that are not entirely satisfactory to me. But, Mr. Chairman, the people there in that country understand the situation. They are on the ground, and in any proposed new State there may be peculiar reasons which impel the framers of the constitution to make exceptions to the patterns of constitutions found in other States. They understand their own special needs, and I apprehend that there have been some good reasons which influenced these constitution makers, these State builders of New Mexico, to impose some restrictions for which they may not be able to show any precedent, yet perfectly justifiable reasons for guarding against hasty and ill-considered amendments.

But, Mr. Chairman, the observations I shall make upon the question of amendment will be in contemplation that they be understood to be in defense and approval of the New Mexican constitution for its conservatism, and, at the same time, in criticism of the constitution proposed for Arizona, because it is too liberal in this respect. I wish to say right here, I shall vote against the requirement that New Mexico shall be required, before admission, to hold another election, for the sole purpose of voting on the question whether it will retain its restrictions relative to amendments. I shall vote against the majority report of the committee in this respect.

On the other hand, I shall vote against the minority report, recommending that as a condition to the admission of Arizona that at another election to be held previous to its admission it shall be required to reject the provisions thereof pertaining to the Recall of judges. But on this question I shall vote for the majority report and also with the recommendations made by the minority of the minority—having reference to the attitude of Republican Members—that Arizona be required only as a condition to its admission that at another election it vote upon whether the Recall of judges shall be eliminated, yet to be admitted whether the Recall of judges be retained or discarded.

I do not propose, Mr. Chairman, to speak at length as to the provisions relative to the facility of amending the proposed constitution of Arizona, but in my judgment they are quite liberal, quite advanced. I mean advanced or extended in the direction in which they go. Now, a constitution which may be amended with the same degree of facility with which a law may be passed I do not regard as a constitution in the true sense of the American understanding of the term. This proposed constitution, once adopted, may be amended almost as easily as may be passed a legislative act. I submit that a constitution which may be amended as readily and with as little difficulty as a legislative act may be passed is hardly a constitution. I here read from the Arizona constitution the parts relative to its amendment:

ARTICLE XXI.—MODE OF AMENDING.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, or by initiative petition signed by a number of qualified electors equal to 15 per cent of the total number of votes for all candidates for governor at the last preceding general election.

Any proposed amendment or amendments which shall be introduced in either house of the legislature, and which shall be approved by a majority of the members elected to each of the two houses, shall be entered on the journal of each house, together with the yeas and nays thereon. When any proposed amendment or amendments shall be thus passed by a majority of each house of the legislature and entered on the respective journals thereof, or when any elector or electors shall file with the secretary of state any proposed amendment or amendments, together with a petition therefor signed by a number of electors equal to 15 per cent of the total number of votes for all candidates for governor in the last preceding general election, the secretary of state shall submit such proposed amendment or amendments to the vote of the people at the next general election (except when the legislature shall call a special election for the purpose of having said proposed amendment or amendments voted upon, in which case the secretary of state shall submit such proposed amendment or amendments to the qualified electors at said special election), and if a majority of the qualified electors voting thereon shall approve and ratify such proposed amendment or amendments in said regular or special election, such amendment or amendments shall become a part of this constitution. Until a method of publicity is otherwise provided by law, the secretary of state shall have such proposed amendment or amendments published for a period of at least 90 days previous to the date of said election in at least one newspaper in every county of the State in which a newspaper shall be published in such manner as may be prescribed by law.

Mr. Chairman, tersely stated, the easier amended the less a constitution. In other words, if, practically viewed, a constitution does not act as a restriction or check against the lawmaking power, it is not a constitution in the American sense, because lacking in the essentials of the functions of the fundamental law of a State.

Mr. Chairman, it is true that in England or Great Britain, the lawmaking power—the Parliament—by itself, unaided by the people, by their electors, may directly and expressly, or indirectly and by implication, even incidentally, amend their constitution. The Parliament in Great Britain is omnipotent, regardless of the theory of a constitution. Yes, omnipotent, because they can by an act of Parliament obliterate their own constitution, and already they have transcended and supplanted the doctrine of divine right of kings by creating kings and queens by statute. Of course, I have reference to statutes passed governing the succession of the Crown. On the other hand, Mr. Chairman, in the United States of America the Constitution is omnipotent, is the supreme law of the land, and no authority or power can transcend it. It acts as a check upon each of the three coordinate branches of the Government. Such is the office of a constitution from the American standpoint, and it logically follows from the American standpoint that a constitution which does not fulfill this function is not to be regarded as fulfilling the purposes of a constitution. Upon this very theory constitutional writers of great distinction have viewed the English constitution and the constitutions of other European nations, which do not act as a restriction upon the legislative branch, as being constitutions in theory only. An American author of high repute, a very great jurist, John F. Dillon, LL. D., says:

De Tocqueville denied that England had in reality a constitution.

Judge Dillon regarded as the most striking passage of De Tocqueville upon the subject:

The Parliament has an acknowledged right to modify the constitution; as, therefore, the constitution may undergo perpetual changes,

it does not in reality exist; the Parliament is at once a legislative and a constituent assembly.

Judge Dillon states:

In the American conception of the office and effect of a constitution, De Tocqueville's criticism is formally just.

The great jurist further says:

Belgium and France have written constitutions, but since they practically have no legal sanction, they are mere glittering declarations of abstract principles of political morality or action, having no force except such as public opinion may give them. They are not laws, since their restrictions and directions will not be enforced by the courts. We are told on good authority that during a period of more than 50 years no Belgian judge ever pronounced a parliamentary enactment unconstitutional, and that no French tribunal would hold itself at liberty to disregard an enactment, however unconstitutional, inserted in the Bulletin des Lois and supported by the force of the Government.

But, Mr. Chairman, on the other hand, this learned jurist, in speaking of our American Constitution, states:

Foreign statesmen and lawyers, after observing the workings of our constitutions in this regard for more than a century, at length join in praising the wisdom of the American device. Thus Prof. Dicey, in his Oxford Lectures on the Law of the Constitution, says: "This system (the American system), which makes the judges the guardians of the Constitution, provides the only adequate safeguard which has hitherto been invented against unconstitutional legislation. The glory of the founders of the United States is to have devised or adopted arrangements under which the Constitution became, in reality as well as in name, the supreme law of the land."

Mr. Chairman, I regard it as legitimately deducible from our constitutional history, national and State, as found by the expressions of great expounders in constitutional conventions and in the Congress, that it is really against the spirit, that it is truly repugnant, that it is incompatible with the purpose of a constitution, that it be amended with the facility with which a legislative act may be passed. This fundamental document is nothing if it does not operate as a restraint or check upon the several coordinate branches of the Government, and, at the same time, upon the people themselves, though in a less degree, when performing directly some of the functions of a government; for instance, when legislating, or, more especially, when exercising the right to amend their own constitution. What is the use of having a constitution if it does not restrain?

It has been observed, Mr. Chairman, that in article 21 of the proposed constitution for Arizona that the rule of the majority as to amendments is adhered to. Not even in making amendments to the constitution is more than a majority vote of the legislature to initiate it or of the people to ratify it required. Why, they could not have been any more liberal as to making amendments without providing that a minority could amend. Despite the opposition of a majority, 15 per cent of the voters can initiate an amendment without regard to the attitude of the legislature; and only 15 per cent of the voters can thus foist upon the people of the State the expense of voting upon one or more amendments to the constitution, and even a special election may be called for the purpose of voting upon a proposed constitutional amendment or amendments. Thus, an election for voting upon a constitutional amendment may be precipitated at any time of the year, halfway between annual elections or only a month subsequent or a month previous to a general election. What are the restraints upon amending this proposed constitution when only a majority of the legislature or 15 per cent of the voters is required to authorize an election? If there are any restraints or any conservative restrictions relative to amendments contained in it, I am unable to perceive them. Wherein, then, is any permanency guaranteed for this proposed constitution if adopted? Wherein is the promise that it will restrain or prevent hasty action? Wherein is a citizen to find assurance that the constitution affords protection against hasty and ill-advised legislation?

Remembering other features of this proposed constitution, specifically the Recall of all officers, intended, of course, to make the officials quickly responsive to the popular demand, what check is the requirement that only a vote of the majority of each house of the legislature is necessary to put on foot a proposed constitutional amendment? What check is this on the making of amendments? Why, the members of the legislature could be immediately recalled if they did not at once respond to the demands of a small percentage of the people. I say small percentage, because the constitution provides that a petition signed by only 15 per cent is of itself alone sufficient to institute an election for voting upon a proposed amendment without the sanction of the legislature.

A petition signed by only 15 per cent will go clear over the head of the legislature to the secretary of state as a positive mandate to him that he must submit such proposed amendments for a vote at the next general election. Fifteen per cent only of the voters, even though there may be another 50 per cent of the voters opposed, may make possible the voting on constitutional amendments. For the purpose of securing permanency of constitutions, so as to give a guaranty of stability of government, it is customary for constitutions to provide restraints against hasty action. I read from the Laws and Jurisprudence of England and America by Dillon. He says:

The devices which our constitutions provide to prevent precipitate action of the popular will are single and simple in principle, but elaborate, though not complex, in arrangement. They may thus be grouped and shortly stated: (a) Three coordinate departments and the separation and distribution of all of the powers of the government into these departments, each checking the other; (b) a system of representation with a double chamber, each a check on the other; (c) the insertion of the guarantees of primordial and fundamental rights—Magna Charta enlarged and perfected—into the Constitution; (d) distribution of powers between the States and the Federal Union; and (e) an independent judiciary, made the guardian of the Constitution, with the crowning power and duty to declare unconstitutional statutes to be void—all to the end that there may be secured a government of laws and not of men.

Judge Dillon, when delivering a lecture to a law-school class, in speaking upon our Federal Constitution, in the course of his remarks, stated:

I only add here that this system of checks and balances which the framers of our Government contrived, and which in its totality constitutes our constitutions, has but the single ultimate purpose of curbing the unfettered exercise of the popular will, and it demonstrates how thoroughly they realized the dangerous and destructive force of that will if it were not put under effective restraints. Unrestrained, it would be—to borrow an illustration from Schiller—like the path of the lightning or of the cannon ball.

Mr. Chairman, it is easy to perceive that in the making of our National Constitution, and also the constitutions of our various States, that the purpose has been: "To establish a carefully prepared system of government, consisting of three coordinate departments—the executive, legislative, and judiciary—each, as far as practicable, independent of the others, balancing, yet protecting, checking, yet preserving, the others."

But, sir, we have constitutions not merely for the purpose of restricting the executive nor the judiciary nor the legislative body, but to prevent as well, hasty action by the people themselves. Sometimes a legislature is not restricted at all by a State constitution, because the legislature represents the people, and legally viewed in a representative form of government, is the people, to express their sentiments upon the statute books. Besides the restrictions placed upon the different branches of government, there are other restrictions imposed upon the people themselves; that is, the people protect themselves against each of these three coordinate branches of the Government, but they do not stop there in the Constitution. They protect themselves against themselves. If they did not protect themselves against themselves, then you would have unbridled passion and prejudice and indignation, which may run riot on account of some sudden exigency.

Now, I will here read into my remarks the language of the English statesman—Burke—regarded by historians and publicists as one of the wisest of political thinkers and philosophers of any age. He says:

Society requires not only that the passions of individuals should be subjected, but that even in the mass and body, as well as in the individuals, the inclinations of men should be thwarted, their will controlled, and their passions brought into subjection. This can only be done by a power out of themselves, and not in the exercise of its functions subject to that will and to those passions which it is its office to bridle and subdue. In this sense, the restraints on men, as well as their liberties, are to be reckoned among their rights.

But, Mr. Chairman, I have overlooked reading a pertinent paragraph from a law lecture of Judge Dillon's, published in Laws and Jurisprudence of England and America. He says:

The absolutely unique features of the political and legal institutions of the American Republic are its written constitutions, which are organic limitations whereby the people by an act of unprecedented wisdom have, in order to establish justice, to promote the general welfare, and secure the blessings of liberty to themselves and their posterity, protected themselves against themselves. What renders this the more extraordinary is that these constitutions are self-imposed restraints. The spectacle is that of the acknowledged possessors of all political power voluntarily circumscribing and limiting the plenary and unrestrained use of it. History affords many examples where the holders of political power have been forced to surrender or to curtail it for the general good; but the example of the people constituting the American political communities in limiting by their own free will the exercise of their power stood alone when this sublime sacrifice was made, and it has not been followed in any country in Europe, nor successfully put in operation elsewhere than in the United States. I said that in this way the people had protected themselves against themselves.

Mr. Chairman, what is meant by the statements of these statesmen and jurists as to self-imposed restraints of the people upon themselves is not that the people deprive themselves of the exercise of power, but that they will protect their calmer judgment, protect the exercise of their reason, their sober second thought—this sober second thought of the people, always to be relied upon against hasty judgment, given possibly in the heat of passion. It means that reason shall predominate over passion in the consideration of public affairs.

Why, Mr. Chairman, even murder is palliated in a degree, the punishment is lessened, when the crime is committed in the heat of passion. Instead of capital punishment being inflicted a life sentence or less is imposed, according to the different provisions of the statutes in various States of the Union, and this discrimination is made because the wrongdoer, according to all criminal law writers and the decisions of courts, is not fully responsible for the unlawful taking of human life when the crime has been committed in the heat of passion and without deliberation. On the other hand, when deliberation and premeditation have preceded the unlawful killing the death sentence is imposed. It is upon the same principle that people in the making of their constitutions guard themselves against the taking of precipitate action in the making of amendments of their fundamental law. They thus preserve and safeguard their sober second thought, wherein their wisdom prevails instead of their possible passions and resentments. Historians and publicists have stated, in substance, I have forgotten the language used, that the decisions of the great body of the people are always right. I believe this and indorse it; this is the very foundation of popular government. But in order to be fair to themselves and afford protection to individual citizens and the public in general, it has been the custom, sanctioned by experience and the wisest statesmen, to provide checks against hasty action, even on the part of the people themselves. Take, for example, our National Constitution, observe the restrictions as to the making of amendments. Article V reads:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. * * *

Thus, if either House in the Congress shall take the initiative, it must have to start with not merely a majority, but a two-thirds vote in the affirmative; then the other body may balk the proposition by refusing to give a two-thirds vote in the affirmative. While, if the States, through their legislatures, take the initiative, two-thirds of the States so acting are required. Then, whether initiated by the Congress or by the States through their respective legislatures, to ratify such amendment, it is required that the legislatures of three-fourths of the States shall vote in favor of the proposed amendment or amendments. As others have compared the constitutions of the other States in the Union with the constitutions of these two proposed new States, with respect to the facility of amendment, I shall not take the valuable time of this House in referring to more than the constitution of the State of Nebraska, the State which I have the honor to represent in part. Section 1, article 15, of the Nebraska constitution, relative to amendments, reads:

Either branch of the legislature may propose amendments to this constitution, and if the same be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and published once each week in at least one newspaper in each county, where a newspaper is published, for three months immediately preceding the next election of Senators and Representatives, at which election the same shall be submitted to the electors for approval or rejection, and if a majority of the electors voting at such election adopt such amendments, the same shall become a part of this constitution. When more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

Mr. Chairman, it will be observed that in Nebraska a vote can not be secured upon a proposed constitutional amendment earlier than 18 months subsequent to the time provision therefor shall be made by the legislature, while the Arizona constitution authorizes the submission of the question at "the next general election." Besides, a special election may be called for the express purpose of voting upon a constitutional amendment with 90 days' publication in newspapers.

As great latitude has been exercised in this discussion, I am sure I shall be pardoned for referring briefly to Nebraska's experience in making, or attempting to make, amendments to the constitution. Until the last few years it had been found difficult to amend our constitution, not for the reason that the legislature would not give its sanction; it has never been found unreasonably difficult in Nebraska, in a proper case, to secure a three-fifths vote of the legislature in favor of voting upon a proposed constitutional amendment or amendments. But notwithstanding a majority of the electors voting at the election is required to carry an amendment, most of the amendments, until a few years ago, which had been proposed failed to carry. They were not affirmatively defeated; not defeated by votes expressed against them. It was because most of the voters paid no attention to the proposed amendment or amendments and did not vote thereon at all, with the result that not a majority of the votes cast at the election were in the affirmative for the propsed amendment or amendments, and in most cases altogether it was only a minority of those voting at the election who voted for and against. But a few years ago a remedy was devised to meet this difficulty through the services of political party organizations. By mutual consent it was arranged that each political party should pass resolutions for or against the proposed amendment or amendments, and that the effect of such resolutions should be expressed upon the ticket or ballot employed by the particular party.

It was assumed that a Democrat or a Republican or Populist, or Socialist or Prohibitionist would vote in accordance with the platform of his party, and the ticket or ballot was made to express itself accordingly, without the affirmative act of the voter himself, and yet he was still permitted to vote against the platform of his party as to an amendment, but to do so would require an affirmative act on his part. Our experience in Nebraska since the adoption of this device has been that a majority of all parties, or the principal parties at least, have indorsed in convention proposed amendments generally regarded as meritorious, with the further result that such amendments have been easily carried. Thus, political party organizations have rendered valuable service to the people of our State.

Mr. Chairman, right here I desire to make an observation in indorsement of the valuable service political parties may and do render to the public. I deem it pertinent to improve the opportunity, because political party organizations and political party services are by some people disparaged, even derided, and I think the trend in that direction is more than usual at this time. Ours is a government, representative in form, by the people, but through the agency of political party organizations. New policies, new laws, and reforms are proposed by political party organizations, and it is through these political party organizations that the sentiments of the people become expressed in political party platforms, adopted at conventions—county, State, and national. True, reforms are proposed by individuals, one or more, independently of party organizations and generally do emanate from the people regardless of party, but to succeed they must be espoused by political party organizations by giving them recognition in their platforms. These platforms are voted up or voted down at elections, but whichever platform succeeds the party which has promulgated the platform becomes responsible for the fulfillment of the policies and promises expressed therein.

If the successful party fulfills its promises, these policies and reforms so declared for are inaugurated and the new laws declared for are placed upon the statute books. Thus the successful party fulfills its pledges. The numerous statutes passed by the Congress in the period since the election of William McKinley as President are direct results of the platforms adopted by the national conventions which nominated William McKinley, Theodore Roosevelt, and William H. Taft for President, as a comparison of those statutes passed under each administration with the platforms upon which the three candidates for the Presidency were nominated will verify. Notwithstanding the greatness of his two distinguished predecessors and others before them, I express it as my judgment that no President has ever fulfilled so much of the platform upon which he was nominated or achieved more in the retrenchment of expenditures and economy of administration in the first two years of the four-year term as has President Taft. [Applause on the Republican side.]

RECALL.

But what I most object to, Mr. Chairman, in the Arizona constitution is the Recall of judges. This is a purely political device rather than a judicial remedy. It is purely a Democratic remedy, fundamentally, unrestrictedly Democratic. It does not possess the characteristics of a representative form of government at all.

Mr. FERRIS. Will the gentleman yield?

Mr. KINKAID of Nebraska. With pleasure.

Mr. FERRIS. I believe the gentleman said this was unrestricted, unbridled, onerous Democratic doctrine?

Mr. KINKAID of Nebraska. Not that, but in substance. Well, let the language I have used speak for itself.

Mr. FERRIS. Is he aware of the fact that Oregon, a Republican State, and that California, a Republican State, have the recall, initiative, and referendum?

Mr. KINKAID of Nebraska. Very well, I will get to that. I have not been discussing initiative and referendum at all, and am not intending to do so. Both have been employed for a few years in Nebraska in cities; and our legislature last winter made provision for having it decided by a vote of the electors

whether initiative and referendum should be adopted with reference to legislation for the State. I would say that the Recall of judges makes the constitution unrepublican in form and unconstitutional, if I were permitted to do so, but our political history, constitution makers, and court decisions forbid it. I regard the question as settled that this Recall provision does not make the whole constitution of Arizona unrepublican in form. I would be pardoned for saying it was unconstitutional, offhand, without looking up the question, because Webster and other great expounders of constitutions, national and State, argued that it was at least against the spirit of what is found in the thirty-ninth article of the Magna Charta, which has been adopted into our National Constitution and in most of our State constitutions, viz, "that no person shall be deprived of life, liberty, or property without due process of law."

But I shall answer the question of the gentleman from Oklahoma. Yes, certainly, I am aware that such a provision is contained in the constitution of Oregon, because that State has been in the van on the Pacific slope in the making of laws and constitutions along these lines, and on account of frequent references made to Oregon in this respect I could not forget it. In a general way I have known that Recall as to officers of municipalities, but not as to judges and other State officers, had been adopted by California, and I have had some information about its operation in the State of Washington. I had the pleasure to hear—and doubtless the gentleman from Oklahoma was present and also heard—the very able presentation made of his views in opposition to Recall by my esteemed friend, the gentleman from South Carolina [Mr. LEGARE], when he cited some examples of the operation of Recall in the State of Washington. I read from the RECORD of the 17th:

Some time ago the newspapers told how the mayor of the great city of Seattle, Wash., had been recalled because he was too lenient with the liquor men, too lax in the enforcement of the liquor laws. Not long after that the newspapers announced that the mayor of Tacoma, there in the same State, breathing the same atmosphere, operating under the same Recall law, had been recalled because of his too strict enforcement of the liquor law. Wishing to be assured as to this, I went to a gentleman from Tacoma and asked him if it was true the mayor of his town had been recalled because of a too stringent enforcement of the liquor laws. "Why," he said, "no; that was partly it, but they recalled him because he stopped a prize fight." "Well," I said, "is not prize fighting unlawful and in violation of the law in Tacoma?" "Oh, yes," he said, "but the people wanted it. It helped the town. It brought crowds of people there, and they wanted it. There were 10,000 people gathered at the prize ring, waiting to see the fight, and when the mayor stopped it they left almost in a body and went directly down town and signed his Recall."

I am free to admit that object lessons such as this furnish a stronger argument in opposition to Recall than any I can make in the abstract.

But, Mr. Chairman, Recall of judges did not originate in Oregon, neither in California, neither in Ohio, where I was surprised recently to learn of its existence. While found in the New England States, it did not originate there. I am proud to have found it did not originate on the virgin soil of America, ordained for government by the people. Sir, I am proud its origin is not to be found in a republican form of government, neither in a democracy. I am gratified to find that so drastic, so un-American a provision, was not evolved, did not originate, under the flag of a republic. As it is arbitrary and tyrannical in its character, inherently so, it is very natural that it originated with kings, and it did so originate under the license of prerogative. Until in the seventeenth century in England the judgeship, or rather the judge, had been so purely an appendant of the king—being required to represent the will, the wishes, and the prejudices of the king, rather than to do justice—that whenever he did not perform the king's bidding he was summarily discharged, you might say discarded, by his majesty. It was the prerogative of the king to appoint his judges and dismiss them summarily without cause. It was the abuse, the prostitution, of this prerogative of the king, this very power proposed in the Arizona constitution, which secured servile judges and tyrannical judges, such as Jeffrys and others of his ilk, whose administrations are now universally condemned.

But, Mr. Chairman, Recall under one form and another was extant in several of the New England States when they came in under our Constitution. I shall not go into the details of its New England history. I shall let it suffice to cite the constitutions of Massachusetts and New Hampshire. Chapter 3, article 1, of the Massachusetts constitution reads:

* * * All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provisions made in this constitution; providing, nevertheless, the governor, with the consent of the council, may remove them upon the Address of both houses of the legislature.

Article 72 of the New Hampshire constitution reads:

* * * All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution; provided, nevertheless, the governor, with the consent of the council, may remove them upon the Address of both houses of the legislature.

But sir, for convenience, for the purpose of comparison, I shall here read sections 1, 2, 3, 4, and 5 of article 8 of the Arizona constitution relative to Recall. They read:

SECTION 1. Every public officer in the State of Arizona, holding an elective office, either by election or appointment, is subject to Recall from such office by the qualified electors of the electoral district from which candidates are elected to such office. Such electoral district may include the whole State. Such number of said electors as shall equal 25 per cent of the number of votes cast at the last preceding general election for all of the candidates for the office held by such officer, may by petition, which shall be known as a Recall petition, demand his Recall.

SEC. 2. Every Recall petition must contain a general statement, in not more than 200 words, of the grounds of such demand, and must be filed in the office in which petitions for nominations to the office held by the incumbent are required to be filed. The signatures to such Recall petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition, and his place of residence, giving his street and number, if any, should he reside in a town or city. One of the signers of each sheet of such petition, or the person circulating such sheet, must make and subscribe an oath on said sheet that the signatures thereon are genuine.

SEC. 3. If said officer shall offer his resignation, it shall be accepted, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after a Recall petition is filed, a special election shall be ordered to be held, not less than 20 nor more than 30 days after such order, to determine whether such officer shall be recalled. On the ballots at said election shall be printed the reasons as set forth in the petition for demanding his Recall, and, in not more than 200 words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said election shall have been officially declared.

SEC. 4. Unless he otherwise request, in writing, his name shall be placed as a candidate on the official ballot without nomination. Other candidates for the office may be nominated to be voted for at said election. The candidate who shall receive the highest number of votes shall be declared elected for the remainder of the term. Unless the incumbent receive the highest number of votes, he shall be deemed to be removed from office, upon qualification of his successor. In the event that his successor shall not qualify within five days after the result of said election shall have been declared, the said office shall be vacant, and may be filled as provided by law.

SEC. 5. No Recall petition shall be circulated against any officer until he shall have held his office for a period of six months, except that it may be filed against a member of the legislature at any time after five days from the beginning of the first session after his election. After one Recall petition and election no further Recall petition shall be filed against the same officer during the term for which he was elected, unless petitioners signing such petition shall first pay into the public treasury which has paid such election expenses all expenses of the preceding election.

With one single exception, which I shall notice hereafter, the Recall in the Arizona constitution is the same as that employed by Oregon. Some Member has already stated that Arizona copied from Oregon; but it is not an exact copy, but substantially the same, with the single exception to which I shall soon refer. At any rate, it is unnecessary for me to read the Oregon provisions. The Address provided for in the constitution of the State of Ohio is practically the same as is provided for in the constitutions of Massachusetts and New Hampshire, so I shall not read it.

The constitution of Maryland provides:

Whereas the chancellor and judges ought to hold commissions during good behavior, and the said chancellor and judges shall be removed for misbehavior on conviction in a court of law, and may be removed by the governor upon the Address of the general assembly: *Provided*, That two-thirds of all the members of each house concur in such Address.

The Texas constitution reads:

The judges of the supreme and district courts shall be removed by the governor on the Address of two-thirds of each house of the legislature for willful neglect of duty or other reasonable cause which shall not be sufficient grounds for impeachment.

Mr. Chairman, the Maryland provision is interesting and curious to me, in that it couples together in the same sentence two features of government so diametrically opposed to each other—government by law and government without law. It starts out admirably by specifying that removal may be made for "misbehavior," mark you, not on Address by the legislature to the governor, not on a vote of the people, but—more conservative yet—on a conviction in a court of law. No American can complain of this; every American ought to applaud it thus far. It recognizes the virtues of both law and the judiciary. But, sir, in this same sentence this conservative and just way of removal is made virtually nugatory by the language which follows it—"and may be removed by the governor on the Address of the general assembly." In this latter clause there are no restrictions. "Misbehavior," neither any other ground for a removal is specified. To remove suddenly becomes an unqualified political right. It is a jump from the most conservative to a very radical plan for removal. Certainly this can be accounted for only by the fact that the Maryland constitution makers were copying, if not literally and fully, the substance of many of the English laws, as was the case with other of the original States.

Mr. Chairman, I am pleased to say that, granting that Address or Recall is to find a place in the constitution of some of

our States, I do not find the Texas constitution vulnerable to my fundamental objection. Removal may be made by the governor on the Address of two-thirds of each house of the legislature "for willful neglect of duty or other reasonable cause, which shall not be sufficient grounds for impeachment."

Certainly willful neglect constitutes a just ground for the removal of an officer, and in most States this is covered by impeachment—if not in the letter of the constitution, in the spirit. Some constitutions provide for impeachment for any kind of wrong administration, and some of them leave it to the common law, the grounds for which impeachment will be proper. The words "other reasonable cause" are, of course, less definite; but following, as it does, the words "willful neglect," the courts would construe the language to mean an official dereliction, more or less similar to willful neglect, or what would come under willful neglect, or equal in degree to willful neglect. In any event, it would be the province of the courts to construe these words and determine in case of any controversy what acts or omissions would constitute "reasonable cause." Sir, I am pleased to say that from a comparative standpoint I am very greatly pleased with this Texas provision. I feel very much like congratulating Texas that it is civilizing and Americanizing Recall.

But, Mr. Chairman, the power of Recall, even as provided for under the name of Address in the constitutions of Massachusetts and New Hampshire, with the checks provided guaranteeing careful investigation, with consideration, more or less judicial, to be given to each case, have been found unsatisfactory to lawyers and statesmen in these two Commonwealths. I read here from the address of Mr. Batcheler, a distinguished lawyer of New Hampshire, delivered before the bar association of that State in 1902. He said:

It is to-day a proposition seldom, if ever, questioned that the provisions of the constitution relative to the removal of judges from the supreme and superior courts by legislative address, except for insanity, permanent physical disability, or conviction of crime by due process of law, is unwise in theory and mischievous in operation.

It is also apparently a well-settled conviction with the people of this State that the assumptions that changes in the judiciary acts under which the powers and constitutions of the courts are defined, and the methods of performing their duties prescribed may be employed in any way or by any contrivance so as to deprive the judges of the supreme or superior court of their offices without regular proceedings for impeachment or by address strictly limited to cases of insanity, permanent physical disability, or conviction of crime by due process of law, is an unsound and unjustifiable theory of constitutional construction.

Furthermore, it is certainly now regarded as a serious and urgent question whether the summary removal of judges by the method of legislative Address, without further safeguarding that proposition by amendments which shall add conditions and limitations, as above indicated and specified, upon the exercise of that power, does not expose the personnel of the courts to unwarrantable attack and a certain, lamentable, and dangerous impairment of the independence of the judiciary as one of the three equal and coordinate branches or divisions of government.

Mr. Chairman, as evidence that public sentiment in that State was in accord with the position taken by Mr. Batchelor, in his address to the Bar Association, I quote from the platforms of the Republican and Democratic Parties, adopted in their State conventions in that same year. I read here a plank from the Democratic platform:

We demand the enactment of a constitutional amendment which shall place our courts upon a permanent basis, secure from attacks of any source, and independent of the legislative branch of the State government.

A similar plank appears in the platform of the Republican Party adopted in that same year:

We favor such amendments of the State constitution as will make the tenure of office of the judges of the present supreme and superior courts as secure, with the exception of the age limit, as that of the judges of the Supreme Court of the United States.

In the Massachusetts constitutional convention of 1820 Daniel Webster expressed his opposition to address, as provided for, which I have already quoted, in this language:

As the constitution now stands, all judges are liable to be removed from office by the governor, with the consent of the council, on the Address of the two houses of the legislature. It is not made necessary that the two houses should give any reasons for their Address or that the judges should have an opportunity to be heard. I look upon this as against common right, as well as repugnant to the general principles of the government.

In this same convention Mr. Freeman said:

I should have liked * * * to limit the power of the governor and council to remove judges on the Address of the two branches of the legislature to specific cases, such as insanity or disability.

In this same convention Mr. Daniel Davis, of Boston, said:

The power of removal by Address, which was intended to apply only to cases of disqualification by the visitation of God, in fact extended much further and was liable to be abused. It was a defect which ought to be remedied. If the resolution was before the committee in a form which permitted of amendment, he would propose to offer it in such manner that the officer proposed to be removed should have a right to be heard. No reason need now be given for the removal of a judge but that the legislature do not like him.

Mr. Shaw, in his argument in Prescott's case, in 1821, said:

It is true that by another course of proceeding warranted by a different provision of the Constitution any officer may be removed by the executive at the will and pleasure of a bare majority of the legislature, a will which the executive, in most cases, would have little power and inclination to resist, * * * and the officer is thus deprived of his place and of all the rank, power, and emoluments belonging to it.

It was the power of appointment, coupled with the power of immediate removal without cause by the King, exercised under the license of prerogative, which constantly imperiled the lives, liberties, and property interests of the people, because of this influence perniciously wielded over the judges. It was to mitigate or prevent this evil that the Parliament, at the time of the settlement of the Crown upon the house of Hanover, and later recognized by the statute of George III, passed a statute providing that judicial officials could only be removed by the King upon the Address of the two Houses of Parliament.

But, Mr. Chairman, I shall cite the British statute, the statute passed in opposition to, and in limitation of, the power to arbitrarily remove judges by the King. I read from Volume VI, Statute of Great Britain and Ireland, William III, 1696–1707, act passed A. D. 1700, commencing on page 293. Omitting the nonessentials, the title of the act reads:

CHAP. II. An act for the further limitation of the Crown, and better securing the rights and liberties of the subject.

Skipping the portion of this act pertaining to limitations in other respects upon the King's prerogative over to page 296, I read:

That after the said limitation shall take effect as aforesaid, judges' commissions shall be made quandiu se benegesserint, and their salaries ascertained and established; but upon the Address of both Houses of Parliament it may be lawful to remove them.

But, sir, this statute, this act, not only very greatly restricts the King in his power to remove judges, but it goes further and provides:

That no pardon under the great seal of England shall be pleadable to an impeachment by the Commons in Parliament.

Mr. Chairman, I regard it as very significant, the coupling of these two legislative restrictions or limitations. By the enactment of these two paragraphs the Parliament effectually barricaded the judiciary and the people on both sides at the same time against the tyranny of the King. His Majesty was thus prevented from discharging a just judge, and at the same time from shielding a corrupt judge against a trial on an impeachment.

The result, sir, was to make the judiciary amenable to the laws and constitution, rather than to the individual King, to be used as his personal agency. No longer could the King Recall, without cause, a judge, but the Parliament could in a proper case for official malfeasance or misfeasance impeach a judge; for instance, could impeach him for obeying the King in defiance of law and justice, and the King would be powerless to prevent his being tried. The purpose of the people by their Parliament, evinced in the enactment of these statutes, was followed up by another act of limitation on the Crown passed A. D. 1700. Hitherto the services of judges had terminated with the death of their sovereign, thus forbidding that they should even contemplate a future allegiance to the heir apparent. Hitherto the judge had been a personal appendant of the King; his official services or existence expired with the death of the King. The statute I will now read continues the judges in office during good behavior, notwithstanding the demise of His Majesty. I read from the Statute of Great Britain and Ireland (Vol. XII, from 1 Geo. 3, A. D. 1760 to 7 Geo. 3, A. D. 1767, p. 64):

CAP. XXIII. An act for rendering more effectual the provisions in an act made in the twelfth and thirteenth years of the reign of His late Majesty King William the Third, intituled "An act for the further limitation of the Crown, and better securing the rights and liberties of the subject, relating to the commissions and salaries of judges.

Omitting numerous whereases, compliments, and expressions of loyalty to the King, I read:

That the commissions of judges for the time being shall be, continue, and remain in full force during their good behavior, notwithstanding the demise of his Majesty (whom God long preserve) or of any of his heirs and successors, any law, usage, or practice to the contrary thereof in any wise notwithstanding.

II. Provided always, and be it enacted by the authority aforesaid, That it may be lawful for his Majesty, his heirs and successors, to remove any judge or judges upon the address of both houses of Parliament.

The enactment of these statutes was a great achievement, as were the provisions of Magna Charta, wrested from King John at Runnymede, for the preservation of the rights and liberties of the people. It was sovereign power wrested from the King and reclaimed to the people. This power was taken back by the people and reposed in their Parliament for their protection, not against a free and independent and impartial judiciary, but

against the tyranny of the King, operating through the agency of a dependent, servile judiciary.

The express purpose of the two acts quoted was to emancipate the judiciary, as well as the people, from the tyranny of the King; and that the purpose succeeded is verified by the fact that up to 1803 the Address provided for had been invoked but once, and this was in the case of Mr. Justice Fox in the Court of Common Pleas in Ireland, and in that case the decision of the Parliament was in keeping with their legislation of 1700 and 1760, the statutes I have already cited. They held that impeachment was the proper remedy for such a case as that of Justice Fox, and the Address was rejected by an indefinite postponement of the proceedings.

But, Mr. Chairman, in the United States of America substantially the same provision for the removal of a judge by Address, as provided by these English statutes, has, by the people and the courts, been given a more sweeping effect than by the Parliament in England. I will cite the most important American case that I have been able to find. It is the case of the Commonwealth against Harriman, decided by the Supreme Court of Massachusetts in 1883, reported in One hundred and thirty-fourth Massachusetts Reports. The opinion of the court commences on page 323. Two important points decided in this case are that the remedy by Address in Massachusetts, under the article of the Massachusetts constitution which I have already quoted, is not restricted to cases other than for maladministration of office, as was contended for in this very case and as was held by the British Parliament in the case of Justice Fox. This case of the Commonwealth against Harriman holds that the removal may be for malfeasance or maladministration in general, as well as for causes for which an impeachment would not be proper or legal.

I read a paragraph, commencing on page 325 of the report:

> The chapter upon the judiciary power provides that the tenure that all commission officers shall by law have in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution; provided, nevertheless, the governor, with consent of the council, may remove them upon the Address of both houses of the legislature. (Const. Mass., c. 3, art. 1.) The decision of this case depends upon the true construction of this article.
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> The relator contends that the only effect of the proviso is to give the power of removal by Address for causes other than misconduct and maladministration in office, and that for such misconduct an exclusive remedy is provided by impeachment under chapter 1, paragraph 2, article 8 of the constitution. We are not able to see any just rule of construction by which we can thus limit and qualify the plain language of the proviso. The language is broad and general; in its terms it includes a removal for any cause which is deemed by the legislature and executive departments sufficient. If it had been intended to exclude from this provision the power to remove for misconduct in office, leaving that to be dealt with by impeachment exclusively, it would have been so stated. Neither this article nor the article on impeachment contains any indication that the power of impeachment was to exclude the power of removal by address. We must give to the proviso the broad meaning which its language imports.
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> The article reaffirms the great principle asserted in the declaration of rights, that judicial officers shall hold their offices during good behavior; but it was deemed wise, as a check upon the absolute power and independence of the judicial department, to confide in the other two coordinate branches of the Government the exceptional power of removing judicial officers by Address when an exigency requires it, of which, from the nature of the case, they must be the sole judges. The obvious and natural meaning of the language used seems to us to require this construction, and our view is confirmed by the history of this provision.
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> It was undoubtedly taken from the English act of Parliament by which the Crown was settled upon the house of Hanover, which provided that, after the said limitations shall take effect as aforesaid, judges' commissions shall be made quamdiu se bene gesserint and their salaries ascertained and established; but upon the Address of both houses of Parliament it may be lawful to remove them, and from the later statute of 1 George III, chapter 23, No. 1, containing the same provision as to removal by Address. The language of the provisions of these statutes is clearly broad enough to authorize a removal by Address for any cause which might seem sufficient to both houses of Parliament, including misconduct in office. * * * The power of removal by Address thus established has been infrequently exercised, but it is an instructive fact that in 1803 two justices of the court of common pleas were removed by Address for extortion in office, misconduct for which they were clearly liable to impeachment. Added significance is given to this action of the legislature and executive departments by the fact that Gov. Strong, who removed them, was a member of the convention and of the committee which prepared the draft of the constitution.

The court also holds that removal may be made by Address under this article of the Massachusetts constitution without any reason being assigned therefor. I read from the last paragraph of the opinion, found on page 329:

> The view we have taken of the principal question involved disposes of the other questions raised by the relator at the hearing. They relate to the offer of evidence by him to prove the causes for which he was removed and the evidence upon which the legislature voted the address. The constitution authorized the removal without any reason being assigned for it, and therefore it is wholly immaterial what evidence or causes induced the legislature to vote the Address or led the governor and council to act upon it. The evidence therefore was rightly excluded.

Mr. Chairman, considering the history of removal by Address in the United States, together with the decision made in this case, and the cases cited in the opinion, I feel myself obliged to yield that the existence of such a provision as is found in the constitutions of several of our States does not render the rest of a constitution of a State unrepublican in form. I feel also obliged to further yield that this same remedy proposed in the Arizona constitution, under the name of "Recall," though it is to be employed there without the agencies of a republican form of government, without the checks of a republican form of government, I mean without the sanction of the two houses of the legislature, the governor, and council, as provided in the Massachusetts constitution, and is to be used in the most democratical way possible—that this Recall provision of the proposed Arizona constitution does not technically disentitle Arizona to admission with such a constitution. As I have already stated in substance, I think it is within the free discretion of the Congress to admit or refuse to admit Arizona with this provision of the constitution; I think it may be determined solely upon a question of public policy.

But, Mr. Chairman, the incumbent officer, let him be a judge or any other officer, who may accept an election or appointment in Arizona with this proposed constitution adopted has no right to complain if Recall shall be invoked against him. As a legal proposition he is estopped from complaining that Recall is even unjust. This Recall provision is a part of his contract with the State, a part of the conditions under which he accepts his office. He is virtually placing himself in the position of a clerk or laborer, employed by a private individual or firm, to be discharged, turned off, at the option of the employer.

Mr. Chairman, let us compare the Recall in the Arizona constitution with the provision for Address by the two houses of Parliament provided for by the English statutes and adopted into the constitutions particularly of Massachusetts and New Hampshire. It was only on account of a blind adherence to British customs, laws, and the constitution that Address was adopted by any American State. If the makers of the constitutions for Massachusetts, New Hampshire, and other Recall States had stopped to inquire into the reasons for the enactment of the two British statutes providing for the discharge of a judge by Address no such provision would have been found in their constitutions to-day. I think they would have reached the conclusion which I have reached—that the purpose was to do away with entirely the removal of judges or the discharge of judges without legal cause and without a fair trial thereon, and instead utilize impeachment—an ample remedy—for malfeasance and all wrongdoings in office.

But, Mr. Chairman, at any rate these New England States, with Maryland, Ohio, and Texas, conformed to the progress made by the British Parliament. They preserved the checks upon the discharge of a judge by Recall or Address. For instance, in Massachusetts the constitution not only requires the concurrence of the two houses of the legislature, but that must be followed up by the sanction of the governor, and thereafter the sanction of the council.

But, sir, as progressive as are the constitution makers of Arizona, they have repudiated all the checks imposed by the British statutes of 1700 and 1760, which I have read, and propose to exercise, unchecked by legislature or governor or council, and unrestricted in any way whatever, the same power that was exercised by a British King under the greatly abused license of prerogative until 1700. They are going to utilize this same kingly power—so far that is all right, because in our country the people are king—but they are going to use it in a prerogative manner; I mean without any legal restrictions whatever. They will act without any legal restraint, as did the king, and that is what I object to. Will they abuse this power as did the British Kings? It is the fact that there is nothing to prevent it that endangers the welfare of the State.

But, Mr. Chairman, Arizona has departed in this particular respect from the principles of a republican form of government and has become very democratic, indeed, in the exercise of the remedy. Now, without speaking in an academic way about it, let us get down to the merits in a concrete way.

Mr. MARTIN of Colorado rose.

The CHAIRMAN (Mr. GARRETT in the chair). Does the gentleman from Nebraska yield to the gentleman from Colorado?

Mr. KINKAID of Nebraska. I do.

Mr. MARTIN of Colorado. I do not understand that Arizona has gone any further than Oregon in the matter of the Recall.

Mr. KINKAID of Nebraska. I will not say about that, certainly. The gentleman knows just how far Oregon has gone, but, as I remember, there is a particular in which Oregon and Arizona differ materially.

Mr. MARTIN of Colorado. I understand they have adopted what is called "the Oregon plan" of Recall, initiative, and refer-

endum, and not only provide for the Recall of the judiciary, but especially name the supreme judges.

Mr. KINKAID of Nebraska. Does that signify anything in particular, that supreme judges are expressly mentioned?

Mr. MARTIN of Colorado. It signifies this: That if Oregon has a republican form of government, and all of the other States of the Union may adopt the same system, I think it would be unfair to discriminate against Arizona and to refuse her admission into the Union for doing those things which may be done by the other States of the Union without violating the Federal Constitution.

Mr. KINKAID of Nebraska. The Member from Ohio [Mr. HOWLAND] suggests to me that that very question is now pending in the Supreme Court of the United States.

But answering the gentleman from Colorado, I do not contend for a moment that being so democratic in this one respect merely would make the constitution of the proposed State of Arizona unrepublican in other respects. While our Government is denominated republican in form, it is not distinctly republican; it is rather a compound of different forms of government, the republican and the democratic; and it even retains some of the features of British aristocracy. We did not emancipate ourselves in a day from monarchical characteristics. Not by promulgating the Declaration of Independence, neither by the victory of the Revolutionary War did we become at once a republican form of government. Not at all. As high an authority as the elder Adams said: "We have a monarchical republic." It has been by evolution as well as by revolution that we have become more of a republic, and that the people have been adapting themselves more to the principles of a republic. Our colonists did not rebel against the forms of the English Government or the English constitution, but rather against the administration, the tyranny of the King in disregard of the British constitution. The colonists, in fact, invoked the constitution and laws of England in justification of the Revolution. Certainly in the establishment of our institutions titles of nobility were interdicted, and primogeniture and entail, conspicuous distinguishing features of British institutions, were abolished, and in general aristocracy in form repudiated. But it is a fact that we remained, both in form and principle, somewhat tory and aristocratic.

The gentleman from Colorado will remember the several devices that were proposed for the selection of the National Executive by means other than by direct vote of the people, one of which was for the National Legislature to appoint, another for the governors of the States to appoint rather than to elect; but, finally, as we all know, we were given the electoral college plan, which we yet have. The gentleman remembers also that as to the several devices offered for choosing Members of the "second branch," as it was called, now the Senate, that the idea prevailed that in a large measure the plan of the House of Lords in Great Britain should be emulated and imitated. As I remember, but few of the delegates favored choosing by direct vote, now so popular with the people. It is a fact that pretty generally the idea with the delegates was that the "second branch" of the National Legislature, the Senate, should represent primarily, not the people or masses, but rather the property and wealth of the country, and by that was meant the aristocracy, as our forefathers at that time identified property and wealth with aristocracy. I remember reading that one delegate at least expressly stated that he wished the Senate to be thoroughly aristocratic. The "second branch" was expected not only to represent wealth and property, but be themselves the possessors of wealth.

On the other hand, the gentleman will remember that no question was made about how the Members of the "first branch," the House, should be chosen; for, from the start, it was assumed that they should be elected by direct vote of the people, and for much shorter terms than the "second branch." It was expected that the "second branch," in imitation of the House of Lords, would secure the conservatism necessary to duly check the contemplated "precipitancy" and "changeability" of the "first branch." The principal reason, the predominating reason, for requiring that bills for the raising of revenue originate in the "first branch," the House, rather than in the "second branch," the Senate, was that the House was assumed to represent the people rather than the classes, or property and wealth, as it was expressed by members of the convention, and that therefore it was the proper body to originate legislation for the taxing of the people.

It is humorous to me when I recall that Mr. Morris, of Pennsylvania, inquired why should the "second House," the Senate, be permitted to originate revenue bills when they "did not represent the people." But, Mr. Chairman, we will all agree that the theory which influenced our forefathers in the constitutional convention, that the Senate should be so remote from the people, while the House Members were to be the immediate representatives of the people; we will all agree that this theory and belief has gradually worn away, both with the Senate, the membership of the Senate, and with the people themselves. Taking the last few Congresses as a criterion, I am impressed it would be very difficult to find reasonable warrant for the conclusion that the Senate, as a body, has been any less responsive to the popular will than the House; and it goes without saying that the individual Members of the "upper branch" are just as democratic and as readily give heed to the demands of their constituents as Members of the "first branch." With this change, very consistently and naturally, has come the demand for the election of Senators by direct vote of the people. The House has several times responded to the wishes and will of the people by passing a joint resolution for the amendment of the Constitution providing for the election of Senators by direct vote, but so far such resolutions have failed of success in the Senate; but the proposition has been constantly gaining ground in the Senate, and it seems evident from what has occurred in the last few sessions that as soon as the question can be disposed of upon its merits, independently of side issues, that it will pass that body.

But, Mr. Chairman, this predilection for royalty was not restricted to our National Government; it has found lodgment in our State institutions as well. For instance, in providing for a senate in the constitutions of the different States of the Union the same idea or plan which obtained in the convention for adopting the National Constitution has been followed in a greater or less degree. In many of the States senators are elected for four years, while members of the house are elected for two years, and in a few States for but one year. In all of the States it is contemplated that the senate will be the conservative body, and this idea that the Senate, both National and State, is to be, and will be, the more conservative of the two branches was borrowed from the British system.

Mr. Chairman, I have talked on this line perhaps further than I ought, but I deem it pertinent to refer right here, in confirmation of what I have been saying, as to our gradually getting away from British institutions, to what occurred in the Massachusetts constitutional convention in 1829. Notwithstanding that Boston Harbor had been the scene of the "tea party," and that Massachusetts, as it were, was first in war; notwithstanding the memories and glory of Bunker Hill, there still lingered in the population of Massachusetts in 1820 a liking for the privileges and prerogatives of royalty or class distinction; and in their constitutional convention held that year it was sought to liken the State senate to the House of Lords in England by imposing a property qualification upon the eligibility of candidates for that body. As a historian records it, the "patrician," or royalty, element demanded, through Daniel Webster, a provision requiring the property conditions. They went so far even as to contend that it would be wholly incompatible with the nature and spirit of our institutions not to require a property qualification for the Senate, in order to distinguish it from the lower house, as the House of Lords in England is distinguished from the House of Commons. I am glad to say the effort failed.

But, Sir, I think we will all agree that the only reason that now remains why the National Senate or a State senate is likely to be more conservative than the House of Representatives, national or State, is that the terms for which Senators are elected are longer than the terms of House Members. It has taken time, sir, to outgrow these hereditary predilections for monarchy and royalty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGHAM. I yield to the gentleman 15 minutes more.

The CHAIRMAN. The gentleman from Nebraska is recognized for 15 minutes more.

Mr. KINKAID of Nebraska. Notwithstanding the Declaration of Independence, the achievement of the Revolutionary War, and the final adoption of the Constitution, it was impossible that the people should at once change, metamorphose their own natures, so as to become thoroughly changed from thinking as the subjects of a monarchy to thinking as the citizens of a republic. Time and experience, and even new-born generations, were required to adjust the people thoroughly to the requirements of citizens of a true republic.

Mr. Chairman, a publicist, speaking of constitutions, asked what the constitution of a people should be, and himself answered the question: "It should be the image of their faith." It should represent their ideals of government. Mr. Chairman, a conspicuous verification and confirmation of this idea is found in the history of England. At first the people went wild over their increased liberty, as they conceived it, under Oliver Crom-

well, but gradually their enthusiasm lessened, and finally they became homesick, as it were, for a return to their original form of government. They had a craving for monarchical forms and customs, for the court, for the trappings of royalty, for the King upon his throne. As an author has put it, "They ran mad over kingship," and to satisfy their political longings they repudiated Cromwellism and recalled from France the profligate, Charles II, whom they had banished, no doubt justly, 20 years before. It was not that the career of Charles II in the interim had been such as to make him the more acceptable as an individual to the people; it was not that they loved the individual prince; the King and his court was their ideal form of government. Charles II, landing at New Haven, was met by the enthusiastic multitudes, serenaded by music, and his path strewn with flowers from the valleys to the hilltops until he reached London, where they triumphantly crowned him their King, and their sentimental cravings were satisfied; they had gotten back home, as it were, by taking back their King.

But, Mr. Chairman, to return to the question of Recall. The Recall may become a perpetual menace which necessarily must insiduously affect the independence of judges. It may be employed as a club ever suspended in the halls of justice, putting out of balance the scales in which right and wrong are weighed. The effect of judicial decisions due to pernicious influence is the same whether the influence be hope of preferment, offered by a political party, or a provision of the constitution, which puts the judiciary in jeopardy, because it gives the people a power that may be wielded as despotically as if vested in a tyrannical monarch. Our very distinguished ex-President, Mr. Roosevelt, expressed this thought clearly in his Cromwell when he said:

> England in the present century has shown how complete may be the freedom of the individual under a nominal monarchy, and the Dreyfus incident in France would be proof enough, were any needed, that despotism of a peculiarly dangerous type may grow rankly, even in a Republic, if there is not in its citizens a firm and lofty purpose to do justice to all men and guard the rights of the weak as well as of the strong.

Now, Mr. Chairman, I would like to talk of this Recall provision of the proposed constitution of Arizona in a concrete way. I am satisfied that the people of Arizona and the people of New Mexico want pure, high-minded men for their judges—men who will be able and independent and impartial and hew to the line. I know something of the people of those two Territories. I do not for a moment question the ability of the people of Arizona to choose a proper constitution for themselves. I do not question for a moment that they are as capable of determining what a State constitution should be as would be the same number of people, taken as they come, without discrimination, in any State of the Union. The people of Arizona do not need any testimonial from me, but it was my pleasure to visit Arizona for a short time in 1897, when I met many of its representative citizens. Like other people who go West to better their conditions, the people of Arizona impressed me as being full of enterprise, public spirit, progressiveness, and, in general, possessed of the qualities which go to make good citizenship.

As I then saw Arizona, I would deem it an injustice to compare the population unfavorably with that of any State in the Union. At this time I met and visited more or less with two of the three associate justices of the supreme court, and if the personnel of these two judges may be taken as a criterion for the grade of the judges that Arizona has had since then it would seem to me that they could have no special reason for placing in their constitution a provision for the Recall of judges.

Mr. Chairman, I do not for a moment question the capability of the people of Arizona to form a constitution for themselves, neither the right to form their own constitution within the limits of the Constitution of the United States. It is the kind of public policy that I object to, and I regard it as a very bad kind of public policy. I oppose the remedy of Recall, especially as to judges, as being against a sound public policy. I said remedy unintentionally, for I do not regard Recall as a remedy, applied to the judiciary. I regard it as itself an evil to be avoided, but I shall use the word remedy for convenience.

Mr. STEPHENS of Texas. Will the gentleman yield at this point?

Mr. KINKAID of Nebraska. Yes; with pleasure.

Mr. STEPHENS of Texas. Is it not a fact that from the viewpoint of intelligence and education Arizona ranks much higher than New Mexico? Is it not a fact that about 40 per cent of the people of New Mexico are Spanish-speaking people, who belong to the Mexican family of Americans? And is it not a fact that the Mexican people are not as capable of self-government as the American people whom the gentleman found in Arizona?

Mr. KINKAID of Nebraska. Mr. Chairman, in answer to the gentleman, I will say that it stands to reason that people who can not speak the English language can not administer the affairs of government conducted in the English language as well as the people who speak that language, and I regret to say that unfortunate situation has been a stumbling block for many years in the way of the admission of New Mexico. Some Members talk about New Mexico as having been eligible to be admitted as a State 40 and 60 years ago; but had it been admitted then it would have been its misfortune, and I imagine that the people of New Mexico will feel that they are securing admission about early enough after all, notwithstanding their great impatience about it.

Mr. CAMPBELL. Does the gentleman from Nebraska believe that a man can think on questions of government in Spanish as well as in English?

Mr. KINKAID of Nebraska. I think he can when Spanish is his native tongue.

Mr. CAMPBELL. Evidently the people of New Mexico think so.

Mr. KINKAID of Nebraska. They certainly know that to be a fact. But, Mr. Chairman, let us consider the grounds upon which Recall may be invoked. Why Recall; for what reasons? You can remove with or without cause. True, the reasons have to be stated in the petition, but what sort of reasons? There are no particular sort of reasons required. In other words, from a legal standpoint, no cause of action need exist, no statutory or common law, cause, or ground need be alleged for the removal of a judge. Any pretext, however flimsy, or of no consequence, which the instigator may elect to employ, will suffice.

Section 1 of the Recall provision reads: "Every public officer is subject to Recall by the electors." For instance, the section does not say, may be recalled for high crimes and misdemeanors and malfeasance in office as is provided for impeachment in this very proposed constitution. Section 2, under the head of impeachment, provides: "The governor and other State and judicial officers shall be liable to impeachment for high crimes, misdemeanors, and malfeasance." Therefore for impeachment legal cause must exist and the causes are specified, so that all officers are informed, when they become candidates, upon what grounds they may be impeached. But it is different with this Recall provision. True, section 2, article 8, provides: "Every Recall petition must contain a general statement in not more than 200 words of the grounds of such demand." And it is further provided by section 3 that: "The reasons as set forth shall be printed on the ballots." But this, the reasons, do not constitute the foundation of the right to Recall. The right to Recall is an unqualified political right. The requirement that the grounds be stated in the petition and upon the ballot is a detail merely, intended to facilitate the campaign, to be used as campaign argument; and to which the incumbent, under fire, may make on the ticket, in language not exceeding 200 words, his defense.

But, sir, what is to be the nature of the reasons? The broadest possible latitude exists. It is not required that the reasons be good or sufficient or come up to any standard whatever. Speaking from a professional standpoint, the reasons assigned, however insufficient, however unworthy of serious consideration, are not demurrable. No provision whatever is made, nor is it contemplated that the legislature or the people directly by legal enactment will provide a mode of testing the legal sufficiency of the reasons assigned for the removal of the incumbent. Sir, no legality is required. It is not a matter of law or legal ground; the right is a political one unencumbered by legal restriction.

The reasons may be few or many. The capacity of 200 words, the extent of the signification of 200 words, is the limit. It depends upon the nature of the charges to be made as to how many grounds or reasons may be charged by 200 words. For instance, if the incumbent is to be charged with having committed high crimes and misdemeanors, much might be charged against him by the use of 200 words, as no regard is to be had for the rules of pleading—I mean as conclusions may be charged in lieu of charging specifically the facts constituting the alleged high crime. For instance, it might be charged ——— ———, incumbent judge, committed murder, arson, robbery, burglary, and so forth; or, as to misdemeanors, it might be charged that he committed assault and battery, petty larceny, willful trespass, and so forth. Such charges, I grant, if found to be true, would constitute just grounds of removal. But no such charges are necessary. Such reasons as these are not essential. The reasons may be for conceived official or individual improprieties merely. The reasons need not be for acts wrong in themselves, neither for acts made wrong by statute merely. It is the exclusive province of the electors or voters to chose their reasons. Such reasons as are set out in a

petition, within the limit of 200 words, as will secure the signatures of 25 per cent of the voters will be sufficient, no difference how grave, upon the one hand, or flimsy and ridiculous, on the other hand, they may be.

But, Mr. Chairman, what is to be the issue; what issue is to be decided by the voting? It should be the issues made by the grounds assigned upon the petition, but that is not so. The voters are not restricted to any such an issue. The issue is a very wide open and at the same time a very complicated one. Granting the existence of a legal provision for removal of officers in proper cases, a fair and legitimate issue for the voters to vote upon and settle could be secured by placing upon the ballot the question, namely, Has ——— Jones, incumbent judge, faithfully discharged the duties of his office? And the voters be required to answer this question yes or no. Or the question might be propounded, Are the charges made against ——— ———, incumbent judge, true? And the voters required to answer yes or no. But such is not the issue; no such restrictions are imposed or contemplated. On the contrary, complicated with the question of the truthfulness of the complaint made against incumbent is the candidacy of one or more competitors. In order to decide the case fairly, in order to decide the justness of a removal, the election should be restricted to that question alone, and the incumbent be voted out or sustained; if a majority vote against him, a vacancy should be declared and an election called to fill the vacancy.

Section 4 provides, "Other candidates for the office may be nominated to be voted for at said election," meaning the election called on the complaint made against the incumbent judge. No mode at all is provided whereby voters may express themselves certainly or specifically as to the truthfulness of the charges made against the incumbent, or whether the incumbent has faithfully discharged the duties of his office.

I may correctly state it that the voter is not permitted to express by his vote whether the charges made are sustained or not. What his vote really expresses is his preference for one of the candidates, either for the incumbent or one of his competitors. He is not required at all to take into consideration the charges made against the incumbent, yet he may do so if he likes. He may vote against the incumbent on account of the charges made against him or, wholly disregarding such charges, he may vote for candidate Smith, whom he would prefer to the incumbent, in any event, however faithful the incumbent may have been in the discharge of his official duties. He may be impelled to vote for competitor Smith for the reason that Smith is of his own political party or the incumbent of different political views, or that Smith is a member of his church or his lodge or his club or was his schoolmate, or the voter may vote for any other candidate than the incumbent, because merely the incumbent is accused of something, or is suspicioned of something, or because of his nationality, or he may be governed by any other reason or reasons not recognized by the constitution or laws of the State, or which would not be sanctioned by public policy or by common sense.

Now, Mr. Chairman, the incumbent is not given a fair trial, even by the wager of battle by votes, on the charges made against him. He is at once put into the running in competition with other candidates, handicapped by being blacklisted by the charges made against him. The issue is not restricted to the charges made against him; not to the question whether he has been faithful to the discharge of the duties of his office or whether the charges made against him are true. Each voter chooses his own issue and his own reasons for deciding how he shall vote. He may be influenced by, but need not give any heed whatever to, the charges printed upon the ballot. He may be impelled by reasons wholly foreign to the charges made against incumbent.

But as to the result. It will not suffice that the incumbent shall receive a number of votes equal to the highest vote received by any other candidate in order that he may be sustained; it is not sufficient that, in spite of the charges made against him, he be merely equal in popularity with his competitors; but in order to be sustained he must show himself to be yet stronger with the people than either of his competitors, for the constitution provides that unless he shall receive the "highest number of votes" he shall be removed. The consequence is that if the result be a tie the incumbent is to be disowned by the people. This is a turning wrong end to the principles of our jurisprudence as well as of election rules and laws in the various States of the Union. Instead of a majority being required to sustain the incumbent, the burden to obtain a majority of votes to be polled against him should be placed upon his accusers. As the section reads, if incumbent secures but a minority of the votes, he is defeated and dishonored; and if he secures a number of votes only equal to that of his competitor, he is likewise defeated and dishonored. Why is it, when incumbent may receive a number of votes equal to that of his competitor, that he shall be removed? Wherein the justice or logic in such a result? Why is incumbent not as good as his competitor when he shall receive an equal number of votes? This feature of Recall in Arizona is without precedent in Recall States; it is different from the Oregon provision in this respect, and is positively repugnant to legal rules and every principle of justice. But, sir, the incumbent is given the laboring oar from the start. He must resign within five days and be considered to thereby confess the truth of the charges made against him, or have his name placed upon the ballot as a candidate, and thus be subject to the ordeal of a campaign of scandal in order to preserve his good name and continue in office to the end of his brief term.

Sir, it is plain to be seen, as a consequence, that the reason for which an incumbent judge may be removed from office, disgraced, dishonored, with his ermine ineradicably blackened, is made to depend upon the will—solely the will—of the voters. If it were the permanent will of the voter as expressed in an existing constitution or a law, which is supposed to represent the permanent will of the people until changed, that would be fair. This is the legitimate will of the people in a government by law. But, sir, the result is that it is left not to this permanent will of the people, not to the public will, expressed by the constitution or statute, but to the personal, individual will of the voters; to their changeable and changing will, their up-to-date, current will; perhaps not their will or sentiment of yesterday or of to-morrow, but of to-day, upon the impulse of the moment, just as the winds may blow. And we should remember, too, that the case is not to be decided at a general election which may be held several months subsequent to the time of making the charges, when the people have had time to cool, to investigate, reflect, and reach the best result of their reasoning. All the action is hasty; an election is to be called for not later than 30 days from the time of making the complaint, and the voting to take place while excitement is yet high, created by the accusations made against the incumbent.

Sir, the consequence is that such a privilege represents not a government by law, which is our plan of government in the highest sense, national and State, but a government by men.

Mr. Chairman, it is government by men, because neither the Constitution nor any law specifies what shall constitute a cause or reason for removal.

The British statute of William the Third, passed in 1700, from which Recall as found in the constitutions of our American States was derived, does not specify that any certain grounds shall exist to justify an address. As it consists of two lines, I shall read it over again:

II. *Provided always, and be it enacted by the authority aforesaid,* That it may be lawful for His Majesty, his heirs, and successors to remove any judge or judges upon the Address of both Houses of Parliament.

The Recall provision contained in the Massachusetts and New Hampshire constitutions are substantially the same as this English statute. As heterodox as it may seem, I feel that I may consistently applaud the English statute and condemn the constitutions of Recall or Address States at the same time for the same thing.

The two mischiefs at which the statute of William the Third was directed were on the one hand the despotic exercise of the prerogative of the king by the discharge of upright judges because they would not perform his bidding, and on the other the pardoning before trial, when impeached by the Commons, judges corruptly servile to the wishes of his majesty. This prerogative the statute abolished, and at the same time repealed the power to pardon unworthy judges before trial when impeached. True, in express language, here originated in this very statute the remedy of removal of judges by Address or Recall, whichever it may be denominated, and which has been adopted with slight variations in form in several of the States of our Union. But virtually, so far as use or utilization in Great Britain was concerned, Address was ab initio obsolete, or a dead-letter law, as the Parliament all the time intended it to be.

The Parliament or the people by their Parliament were reclaiming from the King the sovereignty that naturally belonged to them, and to get along respectably with a delicate matter like this it had to be handled in a diplomatic way. As I have stated, the part providing for removal of judges by address made by both houses of Parliament to the King was not invoked for nearly 50 years after its enactment, and then in but one case, but which the Parliament, on motion of Lord Grenville, rejected by an indefinite postponement, evincing by the learned arguments made by the most conspicuous and distinguished lawyers and jurists who were members of the two bodies, in-

cluding Lord Grenville, Chancellor Erskine, Eldon, and Abercorn, and others, their purpose to restrict the removal of judges to the remedy by impeachment, now so greatly strengthened and popularized and made more efficient by its exemption from pardon before trial. Analyzed closely, the Parliament transferred from the King to itself, for safe-keeping, without use, the power to arbitrarily discharge judges, leaving the King the authority only to grant its request that a judge be discharged. The custody of this prerogative of tyranny thus secured by the Parliament rendered it as secure and harmless as a King's prisoner in chains in the Tower of London. Hitherto this power of the King to remove without legal cause had constituted not government by men but government by one man. This same power reserved to the people by their constitution makes their government in this particular a government by men and not by law. Sir, I mean that to govern without law is to govern by men. I mean that to permit a legislative body, together with a governor, to remove an officer, without cause provided by law, for any reason morally good or bad, is to authorize government by men.

It necessarily follows that for the people themselves to exercise such a power constitutes a government by men and not government by law.

Had our American States, the ones first adopting this removal remedy, paused long enough to refresh themselves as to how it originated, they would have unhesitatingly discarded it; but they were copying so largely from British customs, laws, and the constitution of Britain, and were so blind in their adherence to these that they did not stop to question how or why the statute of William the Third had originated or been passed. That the use of the remedy has never been abused by any of these older States, having existed in their constitutions so many years, does not commend it to me in the least; but in my estimation it does speak volumes for the wisdom, good sense, and statesmanship of the legislatures who have administered it. All the time they were expressly authorized by their constitutions to take things into their own hands without any legal restrictions, statutory or constitutional, or common law, and to decide as they might choose. These legislatures have possessed the authority all the while to remove a judge for any conceivable reason or no reason whatever. Based upon a careful examination of the cases in which Address has been employed in Massachusetts, I have become convinced that it has not been abused in a single instance in that State. In fact, it was only employed in some of the cases after the incumbents had been afforded a fair trial in court and found guilty of the charges upon which their removals were subsequently made by Address. The result of the use of Address in Massachusetts, I think, justifies the expectations by the people of the legislature in the use of the remedy as expressed in the language of Morton, chief justice, in the case of Commonwealth *v.* Harriman, I have already cited. I read from page 329:

> In confiding to the two coordinate branches of the Government this important and exceptional power of removing the judiciary, the people found a sufficient protection to the substantial independence of the judicial department in the constitutional guaranties thrown around it in the fact that the removal can only be made by the concurrent action of both houses of the legislature and of the governor and council, all of whom are directly answerable to the people at frequently recurring periods, and in the trust and confidence they may rightfully repose in their servants and agents, that in the exercise of any power committed to them they will act in obedience to their oaths of office and in the spirit of the fundamental principles of the Constitution.

Mr. Chairman, the able jurist makes the best apology for the device of which the nature of the case will permit. He thinks it has been administered "in the spirit of the fundamental principles of the Constitution." Sir, that which is so thoroughly repugnant to the "spirit of the fundamental principles of the Constitution" has, nevertheless, been administered in accordance therewith. Logically, then, Recall or Address, as you may denominate it, has not been administered in its own letter and spirit, and, if this be correct, it has not been administered at all. Therefore the fact that it has not operated perniciously has been due to the fact that from a practical standpoint it has not been used or has been employed nominally only. It means American legislators, born and bred to be governed by law, found it expedient to rise above Recall or Address, and to write into it legal grounds for the removal of a judge, such as as are provided for impeachment in their Constitution, and to try the case, according to the incumbent, substantially the safeguards of a fair trial upon an impeachment. It was perfectly natural that the sons of the Puritan heroes who, before the *Mayflower* had anchored, had adopted their fundamental law in writing, and who early evinced a settled purpose to lay as the four corner stones of their civilization, religion, learning, liberty, and law, that they should administer this misfit device in accordance with "the spirit of the fundamental principles of the Constitution." This is the way lawyer legislators and high-grade laymen would irresistibly, being true representative Americans, strive to do justice. But, sir, this fact, together with the opinion of the Chief Justice, that the State officers would administer address "in the spirit of the fundamental principles of the Constitution," constitutes, in my judgment, a condemnation of address, and, at the same time, a commendation of government by law.

Take this proposed constitution of Arizona itself and note the guaranties for the protection of private rights. For instance, article 2, section 2, reads:

> All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

Again, section 4 of the same article reads:

> No person shall be deprived of life, liberty, or property without due process of law.

Again, section 8, same article, reads:

> No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Again, section 14, same article, reads:

> The privilege of the writ of habeas corpus shall not be suspended by the authorities of the State.

Again, section 23, same article, reads:

> The right of trial by jury shall remain inviolate. * * *

Mr. Chairman, I deem it peculiarly pertinent to add also section 24, which reads:

> In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy trial by an impartial jury of the county in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

Sir, how very incompatible are the provisions of Recall with the safeguards provided for a fair trial in criminal cases contained in this section; and reputation may not be involved to any greater extent in the criminal prosecution than in the Recall proceeding. The charge made in the one case may be the very one that will be made in the other case, as Recall may be applied to felonies, misdemeanors, and malfeasances committed in office, as well as to anything and everything not recognized by constitutions or statutes.

I will read just one further section. Section 25 reads:

> No bill of attainder, ex post facto law, or law impairing the obligation of a contract shall ever be enacted.

These sections which I have read are in keeping with safeguards to be found in constitutions of most of the States of the Union. The language employed in the different constitutions varies more or less, but substantially the same safeguards are intended and secured. Mr. Chairman, having made these citations, I desire to cite as very directly in point for my purpose section 13 of the Nebraska constitution, which reads:

> All courts shall be open, and every person for any injury done him in his lands, goods, person, or reputation shall have a remedy by due course of law and justice administered without denial or delay.

Sir, I make this citation from the Nebraska constitution because it expressly protects—safeguards—reputation which is involved in so high a degree in a Recall proceeding or election. While reputation is not expressly named in the safeguards provided in the Arizona constitution which I have read, it is nevertheless to be found in the spirit of the Arizona constitution as a right to be protected. But, sir, Recall is a very abrupt departure from these constitutional safeguards of individual rights. But I desire to call attention to other provisions of the Arizona constitution which I consider very pertinent. Take, for instance, part of section 3 of article 9, which reads:

> No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the tax, to which object only it shall be applied.

Certainly this is a very praiseworthy, statesmanlike, constitutional provision. It is in keeping in the respect in question with constitutions of other States. Clearly the people intended not to have their money taxed out of their pockets except as provided by law, and that law must state distinctly the object of the tax.

But, sir, is the money of an individual to be esteemed more inviolate than his good name, compared with which money is but trash? Why not as consistently leave it to officers, township, county, and State, or to the people themselves, instead of officers, to use their discretion, without legal restriction, as to the amount of taxes to be levied and the purpose for which the moneys thereby raised are to be used, as to place the good name of an official at the disposal of the people to be determined by an election without any legal restrictions?

Again, section 5 of article 9 restricts aggregate indebtedness of the State to $350,000. Even the State could not contract indebtedness exceeding $350,000 in amount, however meritorious or necessitous the cause may be.

Again, section 8 of the same article provides that no county, city, town, or school district, or other municipal incorporation, shall for any purpose become indebted for any amount exceeding 4 per cent of its taxable property.

Again, section 10 of this article prohibits the levying of a tax or making appropriation of public money to aid any church or private or sectarian school or a public-service corporation.

Again, under article 9 wise restrictions are provided against the sale of State and school lands. The lands shall not be sold for a limited time, and then for not less than a certain price, and if any lands be sold contrary to the provisions of the constitution, even a deed be made and delivered, the title shall not pass, no difference if the State officials have undertaken to pass title. Mr. Chairman, these provisions clearly evince the purpose of the people of Arizona to safeguard the rights of individuals not only, but the rights of the people, in a public way, as well; evince a purpose to safeguard all rights, private and public, and all the property of the State; to limit the authority and action of the officials of each of the three coordinate branches of the State government, and at the same time to limit the authority of the people acting directly in relation to other public affairs. They are wise constitutional provisions and in harmony with such as may be found on the same subject in the constitutions of most of the other States of the Union.

But, Mr. Chairman, which is to constitute the true criterion as to the predilections of the people of Arizona, the ordinary and usual constitutional safeguards of private and public rights and interests, or the very unusual, or, from the American standpoint, exceptional, mode for the removal of officials provided by Recall? Sir, there is so great a preponderance of what is in keeping with American constitutions over the exceptional, that I am convinced that the former rather than the latter expresses the sentiment of the high-grade citizenship of Arizona. Sir, I am circumstantially convinced from the comparison I have made of the Recall provision that the other provisions of the Arizona constitution, usual in our American States, only a few of which I have called attention to, that the Recall provision received no particular attention at the election which adopted their constitution and, in any event, with the question of the Recall of judges, as distinguished from other officers, received no particular attention, if any attention at all. Naturally, and commendably, the people were anxious for statehood, and to that end were not going to look for differences over constitutional provisions.

Mr. Chairman, is it not anomalous that the officer chosen to adjudicate, to fairly and scrupulously determine the controversies between litigants, every citizen being entitled to secure redress in court for his legal grievance, especially where his reputation may be involved, that this judicial officer is to be singled out, to be denied the rights, inalienable, it should be held of one not holding office. Why pronounce outlawry upon the head of the official elected to do justice to all men alike?

The CHAIRMAN. The time of the gentleman from Nebraska has again expired.

Mr. LANGHAM. Mr. Chairman, I yield two minutes more to the gentleman from Nebraska.

Mr. KINKAID of Nebraska. Sir, it stands to reason that Address or Recall in the hands of the State legislature and the governor, and in some States the council added, each of the two houses of the legislature acting as a check upon the other, with the governor a check upon both, and finally the council a check upon the legislature and governor, can be more readily administered in the spirit of the fundamental principles of the constitution of an American State than will be practicable to secure by vote when determining a case by an election. In the legislature of every State there is sure to be a sufficient number of lawyers who have enough respect for the law, judicial usages, and the inalienable rights of citizens to see to it that a fair investigation is made of charges which may be preferred, of whatever kind or character they may be, and that incumbent be accorded in a measure at least the safeguards of a fair trial or a fair consideration, such as would be accorded upon an impeachment trial, which is judicial in its character. The habit of being guided and controlled by law is likely to prevail even when not required.

Mr. Chairman, it has been truly said:

> Every race which has deeply impressed itself on the human family has been the representative of some great idea, one or more, which has given direction to the nation's life and form to its civilization. Among the Egyptians this seminal idea was life, among the Persians it was light, among the Hebrews it was purity, among the Greeks it was beauty, among the Romans it was law.

Mr. Chairman, our political history is distinguished especially by conquests made in behalf of liberty, but always liberty based upon and controlled by law. In the war which gave us national existence our forefathers invoked law—the British constitution—in justification of the Revolution, and the final victory vindicated their claims. Our National Government and our State governments have been built upon foundations of law, written constitutions, fixing the limits of each of the three coordinate branches of the Government and at the same time the limits of the people who themselves make their own State constitutions. Neither branch of the National Government can legally transcend the National Constitution; and, likewise, the three coordinate branches of a State government must act within the limits of the constitution of the particular State. In certain specified respects the Constitution of the United States is the supreme law of the land over all the people and their State constitutions.

The fealty and loyalty of the people are to their constitutions, national and State. Their patriotism responds to these written charters and the laws made thereunder. Government by law is the ideal of a true American, and he will make himself a martyr for liberty under law before any other cause.

Mr. Chairman, I believe in the wisdom of rules of action provided by the legislative power; I believe in government by the people under the constitutions and laws they themselves make or cause to be made. In my judgment, on no other ground or reason than that it was derived from the British statutes and incorporated into the constitutions of some of the original 13 States at the commencement of our national existence can Recall be held to not render a constitution wholly out of keeping and in direct conflict with our American system. From the American standpoint of government by law, I can only regard Recall in its nature as an invasion by a foreign enemy upon a State constitution; it is subversive of "equality before the law" and the Declaration of Independence. But, sir, as the healthy human system will withstand the most noxious poisons taken in homeopathic amounts, a State constitution will survive this limited amount of contradiction of itself within itself. It is only on account of the great preponderance of good remaining over the bad that a constitution can survive Recall. I deem it putting it mildly to express it as my opinion that the employment of such an agency—its adoption into the constitution of an American State—is promotive of political immorality and recklessness.

Mr. Chairman, from colonial days it has been our cherished purpose, consistently persevered in, to elevate, to create an aloofness of the judiciary from politics; but with Recall adopted this laudable, patriotic ambition is to be surrendered. Politics is to be legally, constitutionally, installed in the sanctuary of justice—the censor and regulator of court decisions. Instead of the independence of judges being secured and preserved, the tendency deplorably is to make them responsive to public sentiment rather than to law.

Mr. Chairman, progress has traveled from East to West around the world. It reached Europe and then leaped across the Atlantic. Westward and still westward the star of empire has moved, over mountains that are giving up their vast mineral riches to the Nation, across prairies that are yielding great agricultural wealth, until it has reached the Pacific Ocean. Here the Occident looks across at the Orient. Here the newest part of the New World challenges attention; to it is given the privilege of demonstrating that in less than a hundred and forty years the people of the United States have learned much of statesmanship; that they have proved what was good in their system of government, and that they are quick to profit by lessons taught through early mistakes.

It is therefore of supreme moment that the constitutions of the last States to be admitted to the Union should represent the Nation's fullest knowledge; that they should be framed with the best wisdom of the time. Because the people of Arizona and New Mexico have the most exalted conception of their high privilege in establishing their States on abiding foundations, they command from Congress the most cautious counsel, the most conscientious advice. For that reason I make this appeal for permanence; I urge that there may be no weak places upon which future legislation shall be enabled to erect a dangerous superstructure.

Before the great creed of liberty was uttered, the hope that dreams of freedom from injustice and oppression might be realized in the western world led our forefathers across the seas. Since the promulgation of the Declaration of Independence the common people of Europe have looked to what now comprises the United States for the greatest advancement in political liberty; they have turned to North America for the highest example of citizenship. Gradually sacred ideals have materialized in the national life; more and more we have justified the faith reposed in us.

A great responsibility rests upon these States of the Pacific slope. They have the advantage of all the past as their monitor. Their citizens "are the heirs of all the ages." I believe that they will fulfill the highest destiny, which is our destiny, the destiny of America, by avoiding all that is injudicious and choosing only what is wise, by casting away all that is unworthy and assembling only what is strong in the building of their constitutions.

Sir, I trust that the people of Arizona, over whom hang skies of such dazzling and perpetual brightness that they are able to see the farthest possible through space, may obtain from discussions with one another, from the instructive articles written by their scholarly editors, and from arguments made by this body, enough light to perceive, as they look into the future, that the Recall may be a mote that threatens to darken the bright new star—and even to obscure the splendor of sister stars—which they, the Congress, and the President are about to place, with the brilliant galaxy, now representing the 46 States, upon the flag of our Republic. [Prolonged applause.]

Wood Pulp and Paper.

SPEECH

OF

HON. GEORGE R. MALBY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 21, 1911,

On the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes.

Mr. MALBY said:

Mr. SPEAKER: Pursuant to consent hitherto given I desire to present some observations in relation to the remarks of the gentleman from Illinois [Mr. MANN] with reference to the so-called Root amendment proposed to the paper schedule in the so-called reciprocity bill.

There seems to be some controversy, not to say differences of opinion, as to what the actual agreement was between the Canadian and American representatives in relation to the terms upon which pulp wood, news-print paper, and so forth, would be admitted into the United States, and also as to what were the terms upon which the same products should be admitted into the Dominion of Canada from the United States.

The gentleman from Illinois holds that the bill as passed by the House is in exact terms with the agreement, and that the Root amendment, so called, is not, but, on the contrary, is in direct violation of it. On the contrary, Senator ROOT, President Taft, Senator WILLIAMS, of Mississippi, and other able and distinguished lawyers, hold that the Root amendment does exactly carry out the agreement, and that the Mann amendment is in absolute violation of it. It is important for this House, as well as the country, to be correctly informed as to which of these contentions is the correct one, for they are as far apart as are the poles of the earth, one accomplishing one thing and one the directly opposite thing, both, however, materially affecting, for good or for evil, the future welfare of this great industry in this country, if, indeed, its future welfare is any longer of deep concern to those who have the power either to make it or destroy it; and upon this point I have the greatest doubts as to whether the future welfare of the paper industry in this country is or has been seriously considered further than to have it serve other interests rather than its own. This fact I will try to demonstrate conclusively further on.

It may be regarded—and, indeed, with much truth—that when truly great statesmen differ as they have upon this or upon any other great and important subject, it is presumptuous on my part to venture to intrude, and therefore in the beginning I offer my humble apologies for trespassing upon their exclusive domain and for offering to express my humble opinion in relation thereto.

I know no better way to determine what the agreement actually is or what it contains or is meant to accomplish than to study and read its provisions and familiarize oneself with the circumstances and conditions which lead to its adoption. So let us for the present proceed in that way and perhaps we may be able at least to form some judgment of our own as to what the contracting parties intended to accomplish. It appears from the documents contained in the message of the President submitted to Congress under date of January 26, 1911, that certain negotiations were had and an agreement made between the representatives of the Canadian Government and those of the United States which were to be submitted to their respective Governments for ratification. Among other things therein submitted we observe that in a letter addressed to the Secretary of State of the United States, with schedules annexed, under date of January 21, 1911, and signed by the Canadian officials, the following language is used, namely:

Par. 2. We desire to set forth what we understand to be the contemplated arrangement, and ask you to confirm it.

Par. 10. With respect to the discussions that have taken place concerning the duties upon the several grades of pulp, printing paper, etc.—mechanically ground wood pulp, chemical wood pulp, bleached and unbleached, news-printing paper and other printing paper, and board made from wood pulp, of the value not exceeding 4 cents per pound at the place of shipment—we note that you desire to provide that such articles from Canada shall be made free of duty in the United States only upon certain conditions respecting the shipment of pulp wood from Canada. *It is necessary that we should point out that this is a matter in which we are not in a position to make any agreement.* The restrictions at present existing in Canada are of a provincial character. They have been adopted by several of the Provinces with regard to what are believed to be provincial interests. We have neither the right nor the desire to interfere with the provincial authorities in the free exercise of their constitutional powers in the administration of their public lands. The provisions you are proposing to make respecting the conditions upon which these classes of pulp and paper may be imported into the United States free of duty must necessarily be for the present inoperative. Whether the provincial governments will desire to in any way modify their regulations with a view to securing the free admission of pulp and paper from their Provinces into the market of the United States must be a question for the provincial authorities to decide. In the meantime the present duties on pulp and paper imported from the United States into Canada will remain. Whenever pulp and paper of the classes already mentioned are admitted into the United States free of duty from all parts of Canada then similar articles, when imported from the United States, shall be admitted into Canada free of duty.

That is to say, whenever the Provinces "from all parts of Canada" put pulp and paper of the classes mentioned on the free list, then the Dominion of Canada will admit similar articles free of duty.

I also quote from Schedule A, which accompanied and was a part of the communication above quoted, as follows, namely:

Schedule A: Articles the growth, product, or manufacture of the United States to be admitted into Canada free of duty when imported from the United States, and reciprocally articles the growth, product, or manufacture of Canada to be admitted into the United States free of duty when imported from Canada.

Then follows a list of articles to be admitted free of all duty, and then it continues as follows:

Pulp of wood mechanically ground; pulp of wood, chemical, bleached or unbleached; news-print paper and other paper and paper board, manufactured from mechanical wood pulp or from chemical wood pulp, or of which such pulp is the component material of chief value, colored in the pulp or not colored, and valued at not more than 4 cents per pound, not including printed or decorated wall paper:

Provided, That such paper and board, valued at 4 cents per pound or less, and wood pulp, being the products of Canada, when imported therefrom directly into the United States, shall be admitted free of duty on the condition precedent that no export duty, export license fee, or other export charge of any kind whatsoever (whether in the form of additional charges or license fee or otherwise), or any prohibition or restriction in any way of the exportation (whether by law, order, regulation, contractural relation, or otherwise, directly or indirectly) shall have been imposed upon such paper, board, or wood pulp, or the wood used in the manufacture of such paper, board, or wood pulp, or the wood pulp used in the manufacture of such paper or board:

Provided also, That such wood pulp, paper, or board, being the products of the United States, shall only be admitted free of duty into Canada from the United States when such wood pulp, paper, or board, being the products of Canada, are admitted from all parts of Canada free of duty into the United States.

I also quote from a communication under date of January 21, 1911, from Secretary Knox to the Canadian representatives in reply to the one previously quoted from the Canadian authorities to Secretary Knox, namely:

It is a matter of some regret on our part that we have been unable to adjust our differences on the subject of wood pulp, pulp wood, and print paper. We recognize the difficulties to which you refer growing out of the nature of the relations between the Dominion and provincial governments, and for the present we must be content with the *conditional arrangement* which has been proposed in Schedule A attached to your letter.

What were the *conditional arrangements* to which Secretary Knox referred? Clearly it referred to that portion of the Canadian representatives' communication above inserted, and, in particular, to that portion of it which says:

We note that you desire to provide that such articles from Canada—

Referring to print paper, and so forth—

shall be made free of duty into the United States only upon certain conditions respecting the shipment of pulp wood from Canada.

There will be no dispute as to that. The parties were attempting to negotiate, so far as the free list, at least, was concerned, for absolute reciprocity, however inequitable such an arrangement would be to the citizens of the United States, and provision was made that all of the articles mentioned in Schedule A, so far as the Canadian Government had the power to negotiate, were to be admitted free into Canada upon the condition that they should be admitted free into the United States. In other words, that was the exact consideration for the concessions made by each.

It will also be seen that the Canadian authorities denied that they had the authority to provide that all restrictions upon the exportation of pulp wood from Canada to the United States should be removed, but they did have the right to provide, and did provide, that until the various Provinces should remove such restrictions the right to export free of duty to the United States the product of wood pulp should not exist. This is admitted from the whole correspondence and from Schedule A, and, in particular, it is pointed out by the Canadian authorities in that connection to our Secretary of State in the use of the following language, to wit:

> In the meantime the present duties on pulp and paper imported from the United States into Canada will remain. Whenever pulp and paper of the classes already mentioned are admitted into the United States free of duty *from all parts of Canada*, then similar articles, when imported from the United States, shall be admitted into Canada free of duty.

That is to say, when the various Provinces constituting the Dominion of Canada had removed all restrictions with reference to the export of pulp wood, and so forth, into the United States "from all parts of Canada," then these articles, when imported from the United States, should be admitted into Canada free of duty. Inasmuch as it rested exclusively with the Provinces to determine whether restrictions on exportations of pulp wood should be removed or not it was only possible for Canada to provide that print paper, and so forth, the product of Canada, should await such action on the part of the Provinces, and then there could be free intercourse and free trade with respect to all these articles between the United States and Canada.

In other words, Canada went as far as it could and made the *conditional agreement* referred to in the letter of Secretary Knox.

The whole proposition is made easy to understand when we consider what the contracting parties were trying to do and what the authority of each in the premises was. That is to say, Canada had no authority to compel the Provinces to permit the exportation of their wood into the United States free of all restrictions. This was a provincial power exclusively and alone, but the Canadian Government possessed the exclusive power to say upon what terms the products of the United States should be admitted into Canada, and therefore it did say and agree with the United States that it would admit its products free when the Provinces had removed their restrictions. In other words, it was of necessity a *conditional* agreement. The Provinces themselves have no authority to negotiate a treaty with the United States which would provide for the free entry of pulp wood and paper into the United States, and in consideration thereof admit like articles into their Provinces, for such an agreement for reciprocity is exclusively within the power and the control of the Dominion Government. And, hence, it was agreed *conditionally* when these restrictions by the various Provinces were removed that there should be free trade in these articles between the United States and Canada, and not until then. No one suggested that either Canada or any one of its Provinces was to enjoy the markets of this country in the sale of their print paper until all restrictions had been removed as to the exportation of the product from which paper was made. In fact, there would be no reciprocity and could be none, except under these conditions.

Had Canada possessed the power to guarantee by agreement that all restrictions as to the exportation of pulp wood, and so forth, would be removed on condition that the United States should remove is duties upon print paper, and so forth, it undoubtedly would have done it; but not having the power, it awaited such action on the part of the Provinces when the reciprocal agreement should become operative. That this is the correct interpretation of the understanding and agreement there is no possible room for doubt. That the negotiators and the President, as well as Congress itself, understand and believe this to be the agreement is evidenced by the fact that the original bill introduced by the gentleman from Massachusetts [Mr. McCALL] exactly provides for the carrying out of just such an understanding and no other. The great newspapers of the country so understand it, but they sought to gain a further advantage not intended or included in the agreement, and hence it was that they demanded that the McCall bill should be amended; and it was accordingly amended by the gentleman from Illinois [Mr. MANN], so as to provide, first, that news-print paper, and so forth, manufactured from the wood cut on any private lands should be admitted free of duty on condition that there was no export duty; and, second, that news-print paper manufactured from wood cut on Crown lands and controlled by a Province should be admitted free of duty upon a like condition, and in that form the bill was reported to the House, and is now the one under consideration.

That this amendment is contrary to the agreement made between the high contracting parties representing this country and Canada, however, there is no room for doubt. It is claimed, however, that Congress has the power to give Canada more than we agreed to, and hence the Mann amendment is not, and can not be, in violation of the agreement. But my answer to that is that anything which either restricts or extends the agreement violates its *intent* and *purpose*, and, in fact, completely deprives the American manufacturers of print paper of the benefits which they were supposed to derive from the agreement which was made. If our representatives who negotiated the agreement had intended to or were willing to provide for the free admission of news-print paper, and so forth, into the United States without any consideration whatever, it would have been easy to do so. Had they been willing to have admitted print paper from the various Provinces, they could have done that. But they did neither, and for the reasons which I have attempted to express. Hence, the Mann amendment is not justified by the agreement, but is outside of it and in direct violation of both its intent and spirit, and under it the American manufacturer gets substantially nothing. The assurance on the part of the gentleman from Illinois [Mr. MANN] that his scheme will better promote the interests of the manufacturers than that which was agreed to is entirely gratuitous on his part and is condemned by those who have studied the subject for a lifetime and familiarized themselves with all conditions, both in this country and in Canada, and who are deeply interested in at least securing pulp wood free from any and all restrictions from Canada.

If the object be to provide pulp wood for the American manufacturers from Canada to meet the growing demands of an ever-increasing trade, why not leave the methods of obtaining that supply to those who have spent a lifetime in the business and who may fairly be presumed to know what is for their best interests as well as that of the trade generally?

While there is some dispute between the gentleman from Illinois and Senator ROOT as to which of their amendments carries out the original agreement, there is no dispute whatsoever as to the effect of each, which is that the Mann amendment provides that print paper, and so forth, shall be admitted free of duty at once when manufactured from wood cut from private lands, and also when manufactured from Crown lands, whenever a single Province removes its restriction against the exportation of pulp wood, whether the other Provinces have so agreed or not; and in which case no paper when manufactured from such wood can be admitted into Canada because, as I have pointed out, the Provinces have no authority to make any such agreement, and it is agreed between the United States and Canada that no such agreement shall be made until all of the Provinces have removed such restrictions. It is also conceded by all that the Root amendment provides, as does the agreement itself, that no print paper, and so forth, shall be admitted free of duty into this country until *all of the Provinces* have removed their restrictions against the importation of pulp wood.

That Senator ROOT's amendment is the only one which carries out the agreement no one can question, and in this position he is sustained by President Taft, who, it may be presumed, had some knowledge of the intent and purpose of the agreement which he negotiated and to which he was a party, for in a speech delivered by him at Chicago, June 3, 1911, he declared that the Root amendment was strictly in accordance with the agreement, and therefore that the Mann amendment is not. The language used by the President is as follows:

> The agreement provides that whenever the Canadian Provinces remove all restrictions upon the exportation of pulp wood, then Canada will permit American paper to come in free into Canada and the United States will permit Canadian paper to come in free into the United States. *This exact agreement is not embodied in the bill as recommended to the House by the Ways and Means Committee and as passed by the House.* Mr. ROOT proposed an amendment to the bill as it came from the House *embodying the exact terms of the reciprocity agreement with reference to paper and material;* that is, a provision that when the restrictions on the exportation of pulp wood from Canada are removed by the Provinces, so that pulp wood may come in free into the United States without payment of any extra duty, then there may be free trade between Canada and the United States in print paper. The pending bill provides that paper made in Canada from wood upon which there is no restriction in Canada may come in free. It is only fair to say, with reference to the Root amendment, *that it is in exact accordance with the agreement.*

Whether the gentleman from Illinois [Mr. MANN] is correct as to what was agreed to and what the House bill now contains, or whether the President and Senator ROOT are correct as to what the actual agreement was, I now leave to those who are willing to give the whole subject a fair consideration. It is of great importance to know what the agreement was and to carry it out as made. This I have attempted to show, and insist upon, if we claim to be proceeding in good faith and have respect for fair dealing.

It is likewise of the greatest importance to know under which provision the manufacturers of paper in this country would be best served. They themselves say that it is for their

best interests to adopt the Root amendment, while the gentleman from Illinois claims that he not only knows better than the President what the President's agreement was but better than the manufacturers what would contribute most to their success. I doubt, however, whether the gentleman from Illinois would have made his speech or contended that his amendment corresponded with the agreement had it not been for the fact that his amendment was demanded by the American newspapers, and therefore that if one amendment was made to the actual agreement that it would be considered in order to offer and consider other and further amendments, which might involve a revision of the whole tariff schedule, and it was to avoid this contention more than any other, I apprehend, which induced the gentleman from Illinois to make the claim he has that his amendment carried out the agreement, which I have attempted to show it does not do.

While a discussion of this feature of the subject has been rendered necessary by reason of a seeming conflict of opinion, it is by no means the only important one deserving of our most serious consideration. For the first time for more than half a century an effort is being made to place the products of our paper mills for the most part on the free list, and against this discrimination and injustice I most earnestly protest.

The tariff on news-print paper is now only 10 per cent on the manufactured product, and is now wholly inadequate to cover the difference between the cost of the finished article in Canada and the United States, while the average duty upon all manufactured articles in this country which come into competition with similar articles manufactured abroad has been as follows: Under the McKinley law the percentage of duties on dutiable goods averaged 47.1 per cent; the Wilson law, 42.8 per cent; Dingley law, 45.8 per cent; the Payne law, 41.3 per cent, showing an average on all dutiable goods coming into this country of more than four times that which is paid on print paper, while some manufactured articles enjoy a protection of over 100 per cent. Sugar, which is consumed by all our citizens, pays 78.5 per cent under the present law. The clothing which the laboring man and the farmer buys for himself and family is protected by a tariff of over 50 per cent, or five times as large as that allowed upon print paper. In view of these facts is it not a pity that the great newspapers of our country, whose proprietors are acquiring wealth by the millions, are asked to pay a measly 10 per cent in order that the manufacturers of print paper may live and this industry survive?

The entire tariff collected on print paper is comparatively a mere trifle, while the Postmaster General informs us that it costs the Government $64,000,000 a year in excess of what the Government receives to carry second-class mail matter, of which newspapers form a large part. It was only a few days ago that I saw it stated that one of the proprietors of a great metropolitan journal was the successful bidder for a million dollars of United States bonds. I do not begrudge him his money or his prosperity, but can anyone advance any good or valid reason why this great industry should be destroyed in order that these same newspaper owners may further enrich themselves at public expense and at the expense of these manufacturers of print paper when they are now enjoying the very lowest tariff imposed upon any manufactured article in this country which enters into competition with the American laborer and the American manufacturer?

To be sure, the gentleman from Illinois, as well as our good President, attempt to console us by the suggestion that this agreement will result to the great advantage of both the producer and the consumer, and by such specious arguments completely nullify the proposition that we can not eat our apple and at the same time save it.

In fact, this whole jug-handled pact is fully guaranteed by its advocates to be a cure-all for all our ills, and no vender of patent medicines has ever been able to describe in more glowing terms the benefits of his remedies than these gentlemen describe the benefits which will flow from this dose of free trade.

I fully appreciate the fact to be that the time has gone by, and, in fact, never was, when any real arguments in favor of protecting American industries would be given any consideration whatsoever as applied to the manufacture of news-print paper. It has not been regarded as of consequence by those having charge of this legislation that there were $400,000,000 invested in this industry in this country, or that it employed 100,000 men, or that its product is valued at more than $275,000,000 annually and most of it paid out in wages to American laborers, or that it had never made any substantial return to those whose capital is employed, or that it actually cost, according to the report of the Tariff Board, $5.35 a ton more to manufacture paper in this country than in Canada, for these questions have been all swallowed up in complying with the demands of the American Newspaper Association, whose greed is unlimited, and whose statement of facts has no foundation whatever, for they, in this day and age, are supreme.

A patient investigation would show that in presenting this matter to Congress they had falsified every material fact worthy of consideration. To illustrate this it is only necessary to call attention to the falsity of their charges that the International Paper Co. was a "trust," and that by reason of that fact newspapers of the country were compelled to pay $60,000,000 per annum in excess of that which they should. Nevertheless, the gentleman from Illinois himself, and the committee of which he was chairman, after having investigated this matter thoroughly, reported unanimously to this House upon that subject as follows:

The evidence before the committee so far fails to prove any combination of print-paper manufacturers to advance prices or otherwise in restraint of trade, but considerable evidence was presented that might excite suspicion that such combination had been made and was in existence. * * * Such of the paper manufacturers as have appeared before your committee during its hearings have strenuously and completely denied under oath the existence of any combination, agreement, or understanding of any nature whatever among the paper manufacturers, or their selling agents, to regulate, control, or advance the price of paper, the assignment of customers, or for any other purpose in restraint of trade.

Further on the committee adds to its preliminary report:

In not presenting at this time definite conclusions and recommendations, your committee is guided by the fact that *no combination in restraint of trade has been proven by the evidence to exist among the paper manufacturers, and the evidence does not show any intention on the part of the paper manufacturers to further increase the present price of news-print paper*, but, on the other hand, the evidence does show that the upward tendency of the price of paper, which was so marked during the year 1907, reached its limit some months ago, probably as the result of economic conditions, and that at present the tendency of the news-print paper market is downward.

The committee further reports, namely:

The paper manufacturers strenuously denied there ever having been such an intention, *and from the evidence submitted to the committee we find that such an advance was never contemplated.* (See p. 1980, Mann report.)

Notwithstanding these findings of fact made by this distinguished committee more than two years ago after a most careful investigation, and of which committee the gentleman from Illinois was chairman, the American Publishers' Association, so called, have continued to reiterate the same false and malicious statements in order to deceive the country generally, and in particular the representatives of the executive department of this Government, as well as Congress itself. It might be well to call the attention of the House to the preliminary report, which was undoubtedly written by the gentleman from Illinois and unanimously concurred in by his investigating committee, in relation to what they thought at the time they concluded their labors and when all the facts were fresh in their minds as to what they believed the real situation to be, and also what it was necessary to accomplish and provide for in order that the American manufacturer might not absolutely perish, and at the same time fairly control the price of print paper:

The committee has not yet completed its investigations and is not yet prepared to make a recommendation as to the permanent policy of the United States in regard to the duty on paper and pulp, except that the committee is firmly of the opinion that the tariff on news-print paper and on wood pulp should not be removed as to paper or pulp coming from any country or place which prohibits the exportation of pulp wood, or which levies any export duty on paper, pulp, or pulp wood, or makes any higher charge in any way upon wood pulp or pulp wood intended for exportation to the United States.

The evidence taken so far would seem to indicate that the temporary suspension or entire removal of the present tariff would not have any great immediate effect, and if the tariff is removed at any time it should be coupled with the right to free exportation of wood pulp from the Canadian forests. The removal of the tariff on print paper and wood pulp, if followed by an export duty on pulp wood coming from Canada, would probably result in a considerable increase in the price of print paper and the early destruction of the pulp-wood forests in the United States.

A low or even moderate price for print paper in the future is dependent mainly upon the future supply and cost of pulp wood. About one-third of the pulp wood now consumed in the manufacture of paper by our mills is imported from Canada. If an export duty should be levied by Canada upon the exportation of pulp wood, or if the Province of Quebec should follow the example of the Province of Ontario and entirely prohibit the exportation of pulp wood cut on its Crown lands, the cost of pulp wood in the United States would be greatly enhanced and the price of paper would go up.

A mistaken policy now adopted and put into effect by the United States upon this subject might easily prove of inestimable damage and cause the practical destruction of the cheap daily newspaper.

It would seem that for the American publisher to be assured of low prices for his paper it is essential to maintain paper mills in the United States. Any policy that would give the Canadian mills a preferential advantage over American mills in obtaining the raw material at a lower price must inevitably result in the dismantling of American paper machines and the ultimate dependence of American publishers on Canadian mills. Under such conditions Canada could levy export duties on print paper that would result in enhanced prices without the presence of competition from American paper manufacturers.

So far as the information yet presented to the committee discloses the facts, your committee is inclined to the opinion that if the American pulp mills can obtain pulp wood from Canada on even terms with the Canadian mills they can make ground wood pulp as cheaply as it can be imported from Canada free of any duty.

The spruce forests of Canada and the water-power development in the United States can profitably and economically be used together in the production of print paper at low prices. The necessary cooperation of these two great natural resources may be brought about by mutual agreement or treaty between our country and Canada or perhaps by thoroughly considered and well-safeguarded legislation. It would be much better to secure such cooperation by mutual agreement with the Canadian Government, if that can be done. Just what obstacles may be in the way of such an agreement, by reason of the fact that the ownership of the Crown lands is in the provincial government, or for other reasons, your committee has not fully considered.

In the final report of the committee, unanimously concurred in, I find the following:

We believe and recommend that in the long run it will be mutually profitable both to the publishers and other users of cheap paper in the United States, to the mills producing the print paper, to the owners of American spruce forests, to the owners of Canadian spruce forests, and to the mutual good feeling and respect of our two countries if a considerable reduction be made in the tariff on the cheaper grades of print paper, dependent, however, upon receiving from Canada—so far as the supply comes from her—the removal of all discriminations now existing in that country or its Provinces against the exportation of wood pulp into the United States and the prevention of future discrimination in the exportation of either ground wood or pulp. The retention of a duty of one-tenth of 1 cent per pound, as suggested, is justified both on the priaciples of a tariff for revenue and a tariff for protection. It is not desirable to strike down or injure the paper mills in the United States. To do so would not only be very expensive to the present paper-mill owners and employees, but would probably in the future enhance the cost and price of paper.

This report was followed by legislation by the House, after a very able speech in favor of it by the gentleman from Illinois. In other words, at that time he was in favor of a duty of $2 a ton on print paper, provided the American manufacturer could secure from the Dominion of Canada *free pulp wood*. It might be proper to inquire when he changed his mind or when he got any new light on the subject. Were it worth while, I might proceed to discuss the danger of the present proposed legislation. For instance, under it, in the very beginning, pulp wood cut on private lands is supposed to be entirely free, but as a condition Canadian print paper is also placed on the free list. What would be the natural result and the one actually feared by the American manufacturer, owing to the fact that the amount of pulp wood on private lands is estimated by the President as being only about one-tenth of the supply? It requires no argument, I think, to demonstrate that such wood would go to a premium at once and be put up by the Canadian exporter, for the reason that such paper could be imported into the United States free of duty. Certainly this would be the case when we recall the fact to be that only such paper so manufactured would be admitted free. The American manufacturer would not stand a show of getting any appreciable quantity of this free wood, which to the Canadian would mean free paper. The same results would follow if only a single Province were to declare for free pulp wood. Paper manufactured from such wood being free would at once go to a premium and be taken in by the Canadian manufacturer, while the American manufacturer would get what was left, if any.

Besides all this, it would be a very easy matter for the Canadian provincial governments to make many other distinctions and discriminations against the American manufacturer which would result in keeping the wood in Canada and compel the paper to be manufactured there. Not only that, but the various Provinces which own these so-called Crown lands have the absolute right to sell these lands to private owners, and as fast as sold paper manufactured from the wood cut thereon would be entitled to come in free, and the sales of these lands could be easily made to keep pace with the Canadian demand for free pulp wood, for free export paper, without furnishing any pulp wood for the American manufacturer whatsoever.

In other words, it is too plain for argument that unless the original contract is carried out, by which all pulp wood in Canada is made free, upon condition that their paper is made free, we have accomplished absolutely nothing, so far as the American manufacturer is concerned.

It must also be borne in mind that the general policy of Canada and its Provinces with respect to all of its forest lands has materially changed within the past few years, so that substantially all of its lumber, timber, and wood in its natural state or in the rough is now prohibited absolutely from being exported to any country. That this policy is considered a wise one by the Canadian and provincial authorities is indicated not only by their legislation, but also in the utterances of their public men and officials, who have in recent years frequently reiterated their determination to adopt such a policy as would compel the complete manufacture of the product of their forests within their own Dominion. It is ridiculous to assume that they will adopt any other policy unless they have to, and certainly they will not have to, even though by so doing they could send print paper into the United States free of duty, for they are fully aware of the fact, as we ought to be, that the time is not far distant when we must of necessity go to them and comply with their laws, and then the question will be presented as to whether we shall lower the tariff or not.

The difficulty about this whole matter has arisen from the fact that its negotiations have been in the hands of "inexpert folks," men of honest convictions and undoubtedly with the desire, so far as consistent with the demands of the American Publishers' Association, to do that which they thought was for the best interests of our country. Nevertheless their conclusions are erroneous and will not lead to a substantial and lasting benefit either to the American Publishers' Association or to anyone else.

I am not given to prophecy, but if I were I would express the opinion that within a short period of time the result of this legislation would be, first, the destruction of the American forests in the attempt of our paper manufacturers to survive under an unequal competition; second, the final destruction of the paper manufacturing industry in this country and its removal to Canada; and, third, when removed to Canada the American Publishers' Association will find that the Canadian Government will not be at all particular as to what the American consumer of paper has to pay.

The American consumer of print paper is, in my judgment, making a fearful mistake, for his interest is to care for the American producer of print paper. Anything which diminishes the ability of the American manufacturer can not help but be injurious to him. Instead of trying to destroy him he should in every way possible try and promote his welfare. It must be evident that this can not be done by subjecting him to a ruinous competition which will close his mills and enable the newspapers to purchase their products from abroad.

For myself I am a Republican, and a vast majority of the constituents whom I represent are Republicans. We are such for the reason, among others, that we have assumed that that party stands now, as it has since the beginning, for an adequate protection to all of the industries in which our citizens are engaged, regardless of the occupation of any. We have believed it to be true that it is not possible for our citizens to produce any article in the rough or manufactured state upon which American labor has been expended and in which there is real competition as cheaply here as abroad. And hence we have believed in a protective tariff which represents the difference between the cost of production here and abroad so that our citizens might go on producing and make a fair profit.

We know of no just reason why this great industry should be singled out, as it has been, for sacrifice, and we do know of many reasons why it should not. It is a breach of contract contained in our national platforms as well as a breach of good faith. What industry the free traders within our party ranks may attack next I know not, but of this I feel fully convinced, that the policy of protection must be universal and all our citizens treated alike or it, too, must perish.

Apportionment of Representatives in Congress.

SPEECH

OF

HON. WILLIAM F. MURRAY,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 27, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration the bill (H. R. 2983) for the apportionment of Representatives in Congress among the several States under the Thirteenth Census—

Mr. MURRAY said:

Mr. CHAIRMAN: I am not entirely sure that the people of Massachusetts would be substantially in favor of the report of the committee which has had this matter in charge and against the amendment offered by the gentleman from Indiana [Mr. CRUMPACKER]; but I am sure that throughout that State, regardless of party differences and irrespective of personal differences as to the details of carrying out the principle in the passage of an apportionment bill, the people of that State do want some action taken without delay, not only by this body but by another body of the legislative branch of the Government.

We have in Massachusetts an annual session of the legislature, and usually the legislature next after the taking of the

census is charged with the matter of dividing the State into congressional districts. Up to this time it has been impossible to do that, because of the failure of the last Congress to act upon this important matter. Throughout the State to-day the newspapers and the people are hoping that something may be done about this matter before the adjournment of the legislature, which may take place in a month or six weeks.

The Republican speaker of our house of representatives has announced publicly—in the newspapers—that because it is in no sense a partisan question he will appoint a committee of 16, composed of 8 Democrats and 8 Republicans, to consider this matter, and the Republican president of the senate has announced that of a committee of 5 the proportion will be 3 Republicans and 2 Democrats. So I urge upon this House and I urge upon another branch of Congress immediate action upon this question, in order that the people of the State of Massachusetts may for the first time in a great many years, for the first time since Elbridge Gerry and others so carved out our districts as to give to the country the word "gerrymander," may have an honest division of our State into congressional districts.

But, Mr. Chairman, I do not want to base my support of this measure entirely upon the viewpoint of the State which I have the honor in part to represent. I am in favor of the report of this committee and against the amendments, in spite of the fact that the report increases the membership of this House from 391 to the number of 433.

I have seen it suggested that this number of Representatives should not be agreed upon because the House is already too large and too unwieldy. Let us compare the membership of this House with the membership of the deliberative bodies of other nations of the world. I was surprised to find that the membership of the House of Commons across the sea is 670, representing a population in Great Britain of only 45,000,000 persons.

I do not know the exact unit of representation upon which their members of Parliament are chosen, because by reason of property qualifications for electors it is impossible to determine that.

I was surprised to find that the Chamber of Deputies in France has a membership of 584, that every arrondissement has one deputy, and that where an arrondissement has 100,000 or more population there are two or more members for that particular city or town.

I was surprised to find that Italy in its Chamber of Deputies has 508 members—one member for every 64,000 of population—and the only deliberative body of the great countries of the world that has a number nearly as small as ours is the Reichstag of Germany, which has a membership of 397. The proposed membership of this House is certainly not too large when viewed relatively, and I do not believe it is too large when we view it absolutely.

Unwieldy? Well, I am frank to say that, as one of the many new Members, for the first few days I did have some difficulty in determining what in the world was going on in this House of Representatives. I not only could not get any clear conception on the floor, but I had some difficulty in trying to trace things out in the next morning's congressional daily newspaper, the RECORD. But I believe my experience is simply that of other Members, and that within even a very short time, within a fortnight or so, we all more or less get the sense of things and are able to vote intelligently and as we believe the people whom we are sent here to represent would have us vote. And because of these facts I am in favor of the report of the committee and against the amendment of the gentleman from Indiana. [Applause.]

Publicity of Campaign Contributions.

SPEECH

OF

HON. CHARLES F. BOOHER,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, August 17, 1911,

On the bill (H. R. 2958) to amend an act entitled "An act providing for publicity of contributions made for the purpose of influencing elections in which Representatives in Congress are elected."

Mr. BOOHER said:

Mr. SPEAKER: The legislation that we are now considering has had a more or less rapid-transit transformation since it first became the subject of legislative consideration.

In the Sixty-first Congress the gentleman from Massachusetts [Mr. MCCALL] reported the first bill on the subject of publicity of campaign expenses to this House. When put upon its passage it received an overwhelming majority of the Members of the House of Representatives. Primarily it was intended to apply this legislation to the election of President and Vice President; and here I call attention to that portion of this bill that refers to the amount that may be expended by candidates for Senators and Representatives. Not one word in the bill as to the amount a candidate for President or Vice President may expend to secure either his nomination or election. There is nothing to prevent the expenditure of vast sums to secure the nomination of favorite condidates for these positions. No publication need be made of money thus received and expended. This omission, however, is not the controlling reason that leads me to the conclusion that it is my duty to vote against this conference report. The McCall bill as it passed the House contained provisions for the publication of all moneys expended before as well as after the election. As it passed the House of Representatives it was in accord with the better thought of the country upon this important subject and it met the approval of all fair-minded people everywhere, but after it received senatorial treatment and was returned to the House its author could not recognize it as his offspring. The heart of the measure had been removed.

The Senate declared by its action that there should be no publication of money received and expended before the election. It would not do to turn on the searchlight of publicity before the election. In due time the bill, thus shorn of all power for good, was returned to the House. It went to conference, and this House graciously yielded and permitted the measure to become a law with the Senate amendments that destroyed its usefulness.

The Sixty-first Congress was overwhelmingly Republican in both branches, and a large majority of that party were opposed to any kind of legislation requiring publicity of election expenses, and when forced by public opinion to legislate they did their best to legislate as little as possible, and to make that little as harmless and ineffective as could be done. It was another attempt by the bosses to fool the American people; how well the game was played the elections last fall tell a silent, but eloquent, story. This poorly concealed effort to play another confidence game on the people contributed very largely to overwhelming defeat and undoing of the Republican Party.

When the President called the Sixty-second Congress in extra session in April of this year the scene had shifted. The people had passed judgment on the legislative performances of the Republican Party and pronounced it very bad. Among other matters of legislation the Democratic caucus decided to take up was the publicity act, as it is termed, and amend it so that contributions to campaign funds should be published before as well as after election. A bill was introduced early in the session, and after varied attempts by the minority to amend the bill, it passed this House April 14 by a unanimous vote, 307 Members voting for it and none against.

Again, in the orderly conduct of business and in the usual manner, it found its way over to the other legislative branch of the Government, and when it was returned to the House for further consideration and action at our hands was so changed, altered, and dismantled that its author would be fully warranted and justified in denouncing it as another outrageous attempt to bunco the American people. In my judgment, we had better have the law as it now stands than to attach to it the Senate amendments.

There are several reasons why I can not support this conference report. One is that I believe the better way is to leave the question of the expenditure of money for the election of Members of Congress and Senators to the States. I can not understand how anyone who believes in the right of the States to manage their own affairs can vote for the conference report. The State of Missouri, which I have the honor in part to represent, has a splendid and effective corrupt-practices act, and it is my information that nearly all the States have such a law. Why should we, as Democrats, abandon the time-honored doctrines of our party upon this important question, and hurriedly and without due consideration, pass this bill. It is not a Democratic measure, it can not appeal to us from a party standpoint for the reason that similar amendments were voted down when the bill was under consideration by the House.

In the Sixty-first Congress the Republican Party believed the States should have the sole power to legislate upon this question and did not hesitate to say so at the other end of the Capitol. Why this sudden and miraculous change of front? Members on this side of this Chamber should not deceive themselves with the idea that it is an honest, sincere conversion. In my judgment, there is behind this movement a shrewd but

thinly veiled attempt to take from the States one more of their reserved rights, one more blow at the doctrine of the rights of the States to govern and control their own affairs in their own way.

If you pass this bill, there can be no justification for not at once passing the joint resolution with the Senate amendments providing for the election of Senators by a direct vote of the people. Those on this side of the House who favor this conference report should at least be consistent and at once pass the joint resolution referred to, but consistency is a jewel not often found in the casket of some of the leaders of the great political parties of this country. In fact, if they ever possessed such a jewel it has long since been securely locked in the safe of expediency. Another reason why I can not vote for this bill is that in States where there is no publicity law, candidates for Members of Congress and Senators are licensed to spend very large sums of money in securing their nomination and election. A candidate for Congress by this bill is permitted to spend $5,000, and, in addition to that sum, the bill provides as follows:

Provided further, That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the States in which he resides, or for his necessary personal expenses incurred for himself alone, for travel and subsistence, stationery and writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be considered as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statement herein required to be filed.

Notice that all these expenses need not be accounted for.

For my part I do not believe any candidate for a seat in this House can honestly and legitimately expend the sum of $5,000 in securing his nomination and election, in addition to the foregoing exceptions. Every legitimate expenditure, it seems to me, is provided for in the proviso of the bill above set out. Then why allow a lump sum of $5,000? For what legitimate purpose can it be expended? A vote for this report, as I view it, is a vote to encourage the unlawful use of money in the election of Members of Congress and Senators in the States that have no corrupt-practice act. There is not a State in this Union whose legislature would dare attempt to pass a law containing the provisions of this bill.

It is argued that this large sum of money can not be spent in certain States that have limited such expenditures to comparatively small amounts by reason of the enactment of corrupt-practice acts in such States.

Take the State of Missouri, for instance: In the district that I represent, a district polling more than 40,000 votes, the sum that a candidate for Congress can expend in excess of the few exceptions named in the law is about $600, and this sum must cover the primary election as well as the general election.

Under this act the State law governing it must be conceded that the expenditure of the lump sum of $5,000 in addition to the very liberal exemptions is only for States that have no corrupt-practice act fixing the amount that may be expended, and here, while legislating for such States, we authorize an enormous lump sum of $5,000 to be expended in addition to the very liberal exemption provided for. Do you not by this very act invite such an expenditure of money as amounts in itself to corruption? You invite candidates to bankrupt themselves, or you invite only those of large means to go out and get votes by the liberal use of money. Would it not be much better to let this report go over to the regular session in December and endeavor to take the hand of the Federal Government out of these elections that all admit should be regulated and controlled by State laws? But if we are determined to legislate for these other States, why not make the law conform as nearly as we can to the States having corrupt-practice acts, and not take the lid off as is here attempted to be done? Let us not invite corruption in elections; rather let us discourage it as so many of the States have done.

In comparison with the provisions of this bill I call the attention of Members to the provisions of the Missouri corrupt-practice act, touching the election of all officers, including Senators and Representatives, which I will insert at the close of my remarks; also the provisions of this bill.

I do not propose to vote for any measure that will encourage the corrupt use of money in elections, as I believe this bill does.

I much prefer the law as it now stands to the measure under consideration, and sincerely hope the report of the committee of conference will not be adopted.

Section 6046, Revised Statutes of Missouri, reads as follows:

AMOUNT TO BE EXPENDED BY CANDIDATES—HOW DETERMINED.

No candidate for Congress, or for any public office in this State, or in any county, district, or municipality thereof, which office is to be filled by popular election, shall, by himself or by or through any agent or agents, committee or organization, or any person or persons whatsoever, in the aggregate pay out or expend, or promise or agree or offer to pay, contribute, or expend any money or other valuable thing in order to secure or aid in securing his nomination or election, or the nomination or election of any person or persons, or both such nomination and election, to any office to be voted for at the same election, or in aid of any party or measure, in excess of a sum to be determined upon the following basis, namely: For the 500 voters or less, $100; for each 100 voters over 5,000 and under 25,000, $2; for each 100 voters over 25,000 and under 50,000, $1; and for each 100 voters over 50,000, 50 cents; the number of voters to be ascertained by the total number of votes cast for all the candidates for such office at the last preceding regular election held to fill the same; and any payment, contribution, or expenditure, or promise, agreement, or offer to pay, contribute, or expend any money or valuable thing in excess of said sum, for such objects or purposes, is hereby declared unlawful.

The bill under consideration reads as follows:

No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided,* That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum in the aggregate exceeding $5,000 in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum in the aggregate exceeding $10,000 in any campaign for his nomination and election: *Provided further,* That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed.

Celebration of the Completion of the Florida East Coast Railway Co.'s Line Connecting the Mainland of Florida with Key West.

SPEECH

OF

HON. L. C. DYER,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, August 12, 1911,

On House concurrent resolution (H. Con. Res. 11) requesting the President of the United States to invite foreign nations to participate in the celebration of the completion of the Florida East Coast Railway Co.'s line connecting the mainland of Florida with Key West.

Mr. DYER said:

Mr. SPEAKER: In this Chamber a few days ago the gentleman from Florida [Mr. CLARK] presented a convincing argument why the Government of the United States should recognize and participate in the celebration of the completion of the Florida East Coast Railway Co.'s line connecting the mainland of the United States with the island city of Key West, said celebration to begin on the 2d day of January, 1912.

I hope, Mr. Speaker, that this House will pass the concurrent resolution now pending providing for proper participation in this celebration. Such celebrations as these—and such a one we had in St. Louis a few years ago in the greatest of all world's fairs and expositions that this Nation has seen—the Louisiana Purchase Exposition—are of great benefit to the American people, especially along educational lines, as the people of each and every part of the country come into a knowledge of the beauty and resources of the whole Nation.

St. Louis was greatly benefited by its world's fair, and is today the great commercial gateway to the Southwest. When deep waterway has been secured from St. Louis to New Orleans, which is sure to come, St. Louis will be of still greater benefit and importance to the people of the South. So, Mr. Speaker, our great city and its people gladly indorse the great celebration to be held in Key West next January, and will be there in goodly numbers.

Being on the subject of world's fairs, expositions, and celebrations of kindred nature, I want to present some facts and figures to show that such events are not a detriment to the city where they are held, as it has often been claimed, but are of great benefit. The great era of progress and development that set in in St. Louis 10 years ago, when active work on its great world's fair was begun, did not stop at the close of the exposition, but has been going steadily on, until to-day she is the most splendid, substantial, and prosperous city in America. During those past 10 years its business has doubled. Its fac-

tory product to-day is $327,676,000, as against $193,733,000 10 years ago. No city has equaled that per cent of increase in the value of its factory product in the last 10 years. Its tonnage in 1910 was 51,918,100, as against 25,313,330 tons 10 years ago.

The future of St. Louis as the market of the Mississippi Valley is assured by the city's ability to manufacture everything that the 30,000,000 people in its trade territory eat, drink, and wear, and need for building and for tilling the soil.

Begin with shoes.

St. Louis is now known as the greatest shoe market of the world. It passed all its eastern rivals during the last 10 years, and its shoe factories now form undoubtedly the largest single interest of the city.

There are 32 factories in St. Louis and 17 others in neighboring towns, most of them in the St. Louis industrial district, all owned by the St. Louis houses. These 49 factories employ about 20,000 people. The 12 manufacturers owning these factories report to the Shoe and Leather Gazette that they sold $60,023,129.70 worth of shoes last year, of which they made $46,249,161 worth or 26,306,735 pairs.

The increase in value of the shoe sales for 1910 was $2,948,336 over the value of 1909.

The car-building factories of St. Louis, with their accessory manufactories, supplied $70,000,000 worth of equipment to the railways last year.

A community of 50,000 people could be supported by the car-building business of St. Louis. It employs 10,000 men and operates 5 large factories, with 3 others, smaller ones, that rebuild and repair. These factories build every kind of street car that is used and every kind of train car from the freight car costing $700 to the beautiful private car that sells for $40,000. Mahogany, yellow pine, and Oregon fir are the woods used in the car building, and many settlements very far away from St. Louis feel the effect of activity or languor in the factories here.

This St. Louis industry is widely known and identified with the city because the name of St. Louis is built into every car made here and is seen by those who ride in it. The business extends not only over the whole United States but into foreign countries. A sale of $1,000,000 worth of cars was lately made to the Argentine Republic.

St. Louis dry-goods houses sold more than $70,000,000 worth of goods last year.

Ninety-two factories feed their entire output into these St. Louis houses for distribution to their customers. Many of these factories are in St. Louis and in the near-by towns; some in the East.

Like the shoe houses, the St. Louis dry-goods houses are yearly manufacturing more of the goods they sell and buying less. Their St. Louis factories already make their entire stock of shirts, hose, underwear, pajamas, skirts, petticoats, neckties, suspenders, garters, and the other small things of wearing apparel that go with the dry-goods business.

The St. Louis dry-goods houses have gone into the competitive market against every city in the country. With bids opened in New York, the inspection being as to quality as well as to price, they have captured large Government contracts for the Indian service.

The wholesale hardware houses of St. Louis and the factories which they own and control sold last year $42,000,000 worth of goods

The orders for the goods were taken by 800 traveling men, covering every State in the Union.

These hardware houses manufacture and sell a variety of goods under the general name of hardware that 20 years ago 10 different kinds of houses would have handled.

One of these St. Louis houses is the largest in the world. It has established five branch houses in important cities of the country the more effectively to hold the business for St. Louis.

These hardware houses, like the shoe houses and dry-goods houses, are very successful in getting contracts from the United States Government, and they are also placing St. Louis goods in the most attractive foreign markets.

St. Louis factories make Missouri the leading plug-tobacco manufacturing State of the country. North Carolina is second, but is below Missouri so far that it is not in competition, and Kentucky ranks next to North Carolina.

St. Louis factories make most of the chewing and smoking tobacco, snuff, and cigarettes credited to the whole State. Last year Missouri reported the manufacture of 67,554,672 pounds of chewing tobacco and 63,994,449 cigars.

The Kentucky tobacco troubles have resulted in enlarging the tobacco-growing industry of Missouri. St. Louis factories will in the future use more and more tobacco grown in Missouri, getting less from Kentucky.

Missouri does not excel in the production of smoking tobacco; nevertheless the State manufactured last year 7,193,260 pounds. Most of it was made in St. Louis. The entire volume of the tobacco business of St. Louis is $50,000,000.

St. Louis drug jobbers and manufacturers last year sold $28,000,000 worth of goods. More than half of these goods were manufactured in their own establishments in St. Louis.

A business that distinguishes St. Louis as a trade center of the United States is the manufacture and jobbing of the articles handled by great drug houses.

In the manufacture of chemicals, patent medicines, ammonia, soaps, perfumes, and toilet articles St. Louis holds a leading place.

The annual death rate of St. Louis is 15.8 to the thousand people—lower than that of either New York, San Francisco, Philadelphia, Boston, Washington, New Orleans, Cincinnati, Louisville, Memphis, or Pittsburg. Because of its wholesome climatic conditions and its large area, in proportion to its population St. Louis has always had a death rate lower than the average American city, but in the last 10 years the rate has gone down 2 in the thousand.

Several things account for this:

St. Louis has an unusually large number of people who own their own homes, outranking even Boston and Philadelphia in this respect. St. Louis has also a larger percentage of park area, compared with its population, than any other city of its rank in the country. These healthful conditions have been growing even better yearly. The excellent sewerage system of the city keeps perfect pace with the increase of population. The pure and clear water was obtained within the last few years, and so were the public playgrounds and the city bathhouses.

Add to these things the effective campaign against tuberculosis and the other diseases whose spread may be prevented by official watchfulness and you have the reasons for the remarkable health of St. Louis.

St. Louis breweries made and sold last year $25,000,000 worth of beer.

They exported enough to give the city the rank of the second beer-exporting city of the United States. These breweries paid directly to their 5,373 workmen $4,416,000.

These breweries bought last year $15,000,000 worth of supplies. Most of this money was spent in St. Louis for things made in St. Louis.

The brewery interest so ramifies into other lines of mercantile and manufacturing business that description of this direct-trade influence seems to be an extravagant statement. Aside from brewery employees, there are at least 20,000 others in factories and shops selling material to the breweries whose work depends on that business.

The average annual pay of workers in St. Louis is $664.80, outside of the breweries themselves, whose average pay is a little greater than that. It is therefore within the facts to say that through the manufacture of beer nearly $18,000,000 a year is paid to St. Louis wage earners.

One of the St. Louis breweries is the largest lager-beer brewery in the world.

The fur sales of St. Louis by all the houses were about $9,000,000 last year.

St. Louis has a direct interest in the effort that Secretary Nagel is making to persuade Great Britain, Russia, and Japan to agree on a plan to save the seal herds from the pirates who slaughter them in the open sea.

From the time of Laclede, the founder of St. Louis, the city has been the chief raw fur market of the United States, and the fur buyers of the world so recognize it.

The business here is as picturesque as it is important. The largest houses here have fur auctions three times a week during the season. Fur buyers for the big London, Paris, and New York houses come to these auctions, which are all-day affairs, and the trappers themselves often make long journeys to see how their furs are selling. All these visitors, buyers, and trappers are the guests of the fur houses during the auctions, and are hospitably entertained.

Nearly three-quarters of the whole fur catch of North America is bought by these St. Louis fur houses from the trappers and sold at these auctions, and the name of every trapper in this whole country is on their books.

Last year Philip B. Fouke, the head of the largest fur house in St. Louis, went to Washington and tried to buy from Secretary Nagel, the entire seal catch of the United States, intending to auction the sealskins in St. Louis. The contract, however, had already been given to London. Next winter, however, Mr. Fouke may succeed. The seal catch of the United States is worth about half a million dollars, and its value will grow, of course, if the herd is protected.

The value of the clothing for men and women sold by the 108 St. Louis factories last year was $14,573,000.

This is an increase of 47 per cent in production in 5 years.

The manufacture of clothing in St. Louis has grown into a strong industry in the last 10 years.

There are 8,000 workers employed in these factories. The growth of this industry deserves attention, because 10 years ago the city was regarded as weak in the manufacture of clothing, and because the conditions surrounding the industry now show that it is going to be one of the strongest in the city.

These factories not only sell to St. Louis jobbing houses, but they sell clothing to the St. Louis retail clothiers and clothe thousands of people in other States.

The 160 foundry and machine shops of St. Louis made and sold last year $15,000,000 worth of product, gaining 25 per cent over the product of five years ago.

These shops make all kinds of tools and engines, and iron work for building, architectural and structural, and they have put St. Louis into the markets of the world, exporting to China and Japan, Mexico and South America.

These factories employ 7,000 workmen.

St. Louis woodenware houses did a business last year of $18,000,000.

When Samuel Cupples began the manufacture of woodenware in St. Louis before the Civil War, his little factory made plain woodenware and nothing else, and that was all he sold—buckets, washtubs, washboards, brooms, and things like that.

Now the woodenware business here, with its contributory factories, makes and sells a great variety of articles, handled by grocers for household use, of other material as well as woodenware—metal, cordage, and paper.

Nearly one-half of the entire business of the country in the lines of goods that are made and jobbed by these St. Louis houses is done by them under the general name of woodenware.

The original St. Louis house is now the largest and the strongest in the country, and is extending its influence greatly into the foreign trade.

One polyglot catalogue it issued lately cost $10,000.

The 24 meat-packing houses of St. Louis sold $26,601,000 of their product last year, an increase of 52 per cent in five years.

This is a very solid business for St. Louis that is assuming prominence.

The capital invested, the number of houses, and the number of employees are increasing yearly.

St. Louis factories last year made 847,000 stoves.

These stoves were sold for $8,000,000.

The city of this country next to St. Louis in the manufacture of stoves makes barely half as many.

The industry is firmly localized in St. Louis, and is yearly growing in importance, the number of factories and the number of persons employed increasing, as well as the output.

The St. Louis stoves are in demand abroad, and the factories are giving more attention yearly to their export business.

The 107 St. Louis factories that make carriages, wagons, and buggies made and sold last year an output worth $10,500,000.

The experts of the Government taking the manufacturing census give St. Louis first place among the cities of the United States in this industry.

St. Louis took the lead in this line of manufacturing five years ago, and has since then gained on its competitors. The rapid growth of agricultural communities tributary to St. Louis insures the permanence and the substantial increase of these branches of St. Louis manufacture.

St. Louis excels in the manufacture of clay products.

The 3,000 workmen in the factories here produced last year pipe, pottery, fire brick, terra cotta, and tiling which were sold for more than $6,000,000.

No other city in the United States makes even two-thirds of this.

St. Louis fire brick is going into the building of the Panama Canal. This industry is yearly becoming more important to St. Louis. The city is surrounded by beds of the finer clays, and the cheapness of the raw material is attracting manufacturers, who are developing all the branches of this business.

Fifty St. Louis factories, with 7,100 persons working in them, made furniture last year which was sold for $4,250,000.

Some of these factories are exclusively for repairing, some specialize on beds, and one makes only car seats.

St. Louis is appropriating the manufacturing of car seats and of metal beds, and is distinguished in these two branches of manufacture. The larger factories are growing into the manufacture of the finer qualities of bank and office furniture.

The office furniture of the Business Men's League—mahogany—is a beautiful example of the St. Louis workmanship. The St. Louis factories lately went into the open market against the keen competition of the oldest and most aggressive New York, Chicago, and Grand Rapids manufacturers, and got the entire contract for furnishing the Central Library here.

The St. Louis furniture factories have largely increased their output since the census reports of 1905, and are enlarging the territory in which they sell, confining themselves no longer to the South, but extending their influence into the far West and the North.

An industry that distinguishes St. Louis in the markets of the world, which is barely touched by other manufacturing cities of the United States, is the making of wire rope and aerial tramways.

These steel bridges made in St. Louis span the chasms of the Andes, as well as the gorges of the Alleghenies and of the Rockies.

The ordinary rope and cable of vegetable fiber is also made by these factories, the output altogether last year having been sold for more than $6,000,000.

The two largest of these manufacturing concerns are finding the demand for the steel cable from the South American and Central American countries so great that in the effort to make this rich market more accessible they have become large stockholders in the proposed line from New Orleans to Rio de Janeiro, and we are actively interested in the St. Louis-New Orleans river line now being established.

In the manufacturing and jobbing of electrical products St. Louis concerns last year did a business of $20,000,000.

St. Louis in the last 10 years has become a noted electrical center. More of the goods sold are being made yearly by the factories here, and less is being bought from the older electrical manufacturing points.

The city is becoming known generally in the country for its manufacture of incandescent lamps and insulated wire, and the industry is regarded by the electrical interests of the country as one which in the future will contribute largely to the manufacturing wealth of St. Louis.

The building of the Keokuk electrical dam, with its distribution of power to St. Louis, is greatly stimulating this electrical business here.

Mr. Speaker, the facts which I have presented to you and to this House, showing the great progress and development of the city of St. Louis in the last 10 years, were carefully and accurately prepared by Mr. William Flewellyn Saunders, secretary and general manager of the Business Men's League of St. Louis, and are in all respects correct. The St. Louis Post-Dispatch, in an editorial of July 8, had the following to say concerning these facts, to wit:

ST. LOUIS HAS THE GOODS.

An accurate idea of the industrial strength and consequence of St. Louis is conveyed by the 19 articles compiled by William Flewellyn Saunders, secretary and general manager of the Business Men's League. The publication of the articles was completed in the Post-Dispatch yesterday under the caption "Facts about St. Louis you ought to know."

In the eloquent tale of industrial and commercial progress reduced to figures by Mr. Saunders, every St. Louisan will find cause for pride. Every St. Louisan should have every point and every bit of the information in his head. Mr. Saunders himself did not know what a pay streak he had uncovered, but once he was in it he worked with the enthusiasm of the true miner and with results that have surprised many men best informed as to the city's business and commerce.

Everyone knew, of course, that St. Louis leads in the manufacture of shoes, but how many knew that the 49 factories employ 20,000 persons and sold $60,000,000 worth of shoes last year? Everyone knew that St. Louis has the largest brewery, but how many knew that the brewing and allied and dependent industries paid out $18,000,000 last year in wages? Everyone knew that St. Louis was first in the manufacture of stoves, but how many knew that the actual output last year was 847,000 stoves, or that they sold for $8,800,000? Everyone knew that St. Louis excelled in car building, but how many knew this industry's product was sold for $70,000,000 in 1910, or that it supports a population of 50,000 persons?

Among the especially interesting information Mr. Saunders secured by painstaking effort is that St. Louis dry goods houses have their needs supplied, in part, by 92 factories, many of which they own, and sold $70,000,000 worth of goods in 1910.

That St. Louis hardware houses sold $42,000,000 worth of goods last year and employ 800 traveling salesmen.

That St. Louis leads the country in the manufacturing of plug tobacco, produced last year 67,554,672 pounds of chewing tobacco, 63,994,449 cigars, and did a general business in the manufacture of tobacco products of $50,000,000.

That St. Louis wholesale drug houses sold $28,000,000 worth of drugs, chemicals, and sundries last year, of which one-half was manufactured here.

That three-fourths of the North American fur catch is handled in St. Louis and was last year sold for $9,000,000.

That 108 clothing factories employ 8,000 persons and last year produced $14,573,000 worth of clothing.

That 160 foundry and machine shops employ 7,000 men and had a product in 1910 of $15,000,000.

That in woodenware St. Louis did a business of $18,000,000 and has the greatest and largest woodenware house in the world.

That the 24 meat-packing concerns sold $26,601,000 of their products last year and the business is increasing rapidly.

That St. Louis is the wagon and buggy center, with a 1910 product of $10,500,000.

That St. Louis clay products industries employ 3,000 men and had an output last year of $6,000,000.

That 50 furniture factories employ 7,100 men and produced $4,250,000 in products.

That of wire rope, cables, and aerial bridges and tramways St. Louis houses produced $6,000,000 worth last year.

That electrical supply manufacturing concerns sold an output of $20,000,000 last year.

These are all matters of large business, so well organized that figures were obtainable. They do not tell the whole tale of the city's industrial greatness. There is in the aggregate a vast amount of business that could not be detailed. How St. Louis compares with other cities in respect of particular lines of industrial effort is interesting. It is something to know that in shoes, cars, stoves, and hardware St. Louis leads all competitors. But, after all, it is the absolute figures that are important. Absolutely St. Louis seems to be living up to its industrial opportunities. In every instance Mr. Saunders found increase and expansion. It is a pertinent conclusion that when St. Louis can do so much in the face of transportation conditions far from ideal and an arbitrary bridge toll that is a direct tax on industry it would be the wonder of the Nation if it enjoyed that freedom of trade which the Federal Constitution forbids the States to interdict or tax.

The celebration at Key West, Fla., ought to be a great national event. That great engineering project is worthy of great consideration. The connecting of Key West with the mainland by a splendidly built railroad of more than 100 miles across the sea is indeed worthy of a befitting celebration, and as Congress is not asked to contribute one penny toward this celebration we ought to pass this resolution unanimously, and thus give it national recognition.

Such a celebration will also be of great benefit to the city of Key West, the State of Florida, and the South, in all of which we are in hearty accord. This project is akin to the Panama Canal and the Lakes to the Gulf deep waterway celebrations, which will be fittingly observed in due time.

Our National Policy with Regard to Public Coal Lands.

REMARKS
OF
HON. F. W. MONDELL,
OF WYOMING,
IN THE HOUSE OF REPRESENTATIVES,

Thursday, August 10, 1911,

On the subject of public coal lands.

Mr. MONDELL said:

Mr. SPEAKER: I ask unanimous consent that I may extend remarks in the RECORD at some future date on the subject of our Government coal-land policy.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to extend in the RECORD remarks on the subject of coal lands. Is there any objection?

There was no objection.

Under the leave thus granted, Mr. MONDELL submitted the following remarks:

Mr. Speaker, as a text for the remarks I shall submit on the subject of the past and future policy of our Government in regard to coal lands I shall insert in the RECORD a letter which I wrote to the Secretary of the Interior relative to the present classified prices of coal lands, and which is as follows:

PUBLIC COAL LANDS.

JUNE 24, 1911.

Hon. WALTER L. FISHER,
Secretary of the Interior, City.

SIR: Prior to 1873 the public lands of the United States were disposed of without taking into consideration the question as to whether or not they contained coal, and therefore all the lands containing anthracite and bituminous coal in Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, and most of such lands in Alabama, passed into private ownership as agricultural lands and at nominal prices.

In 1873 Congress passed the coal-land law, providing for the sale of coal lands at not less than $10 per acre where such lands were more than 15 miles from a completed railroad and not less than $20 per acre for such lands as were within 15 miles of a railroad, and from that time until 1907 coal lands were sold at the prices named in the law.

In 1907 the policy of considering the price of $10 and $20 per acre fixed by law the minimum price and of selling coal lands at a classified price in excess of the minimum was adopted. For a time the classified prices were not generally greatly in excess of the minimum prices, but gradually those prices have been increased by reclassification (in some cases the same lands have been classified three times) and by higher original classification until, according to a statement recently made by the Director of the Geological Survey, the classification of 14,473,609 acres made prior to March 31, 1911, had raised the valuation of these lands from $236,460,613, under the minimum prices fixed by law to $668,433,342, under classification.

The mere statement of an increase in valuation to nearly three times that fixed by the statute does not, however, give an adequate idea of the actual conditions in the fields where coal is being mined, for in such localities the classified price is from ten to twenty-five times the statute price. The comparatively low average increase in valuation is due to the fact that much of the land which has been classified contains, or is believed to contain, thin veins or deposits of low-grade lignite coal, having no present market value and not salable at any price as coal land. These lands have largely been classified not greatly above the minimum price, thus keeping down the general average. On the other hand, in all of the fields where the coal is of sufficiently high grade to be workable or is being worked the prices, even for lands far from means of transportation, have been increased from the minimum fixed by law to from $150 to $500 per acre.

Whatever one's views may be as to the proper interpretation of the coal-land law, and therefore as to the authority of executive officers to fix prices above those contained in the statute, there is much force to the argument that the value of coal-bearing land differs so widely and the temptation to large holdings, particularly in fields of exceptional quality, is so great that a graduated price rather than a flat rate is the better from the standpoint of public policy. However, as it has never been the policy of the Government to attempt to secure an exorbitant price for its lands by creating a land monopoly, it would seem logical that under a system of valuation the price should be fixed with a view of discouraging the acquisition of lands for speculative purposes rather than with the intent of capitalizing the necessities of citizens who must have coal, of which the Government has a monopoly.

The first prices fixed under classification were in the main not excessive, though quite high enough to discourage purchase, except with a view of immediate development, and therefore though the policy involved a questionable exercise of executive authority, there was a general disposition in the country affected to withhold criticism and give the new policy a fair trial. The reclassifications and increased valuations, however, have placed coal lands at such prohibitive figures and contemplate such a serious burden on western communities, that the people of the public coal-land States have become thoroughly aroused over the situation, and as the representative of the people of one of the States whose citizens are suffering and are certain to suffer more from the effect of the present policy, I feel it my duty to call these matters to your attention in the hope that the present policy may be radically modified.

The valuations which have been fixed on public coal lands in Wyoming, Colorado, Montana, Utah, New Mexico, and other Western States are, in my opinion, so beyond all reason and justification that I find it difficult to discuss the subject in an entirely dispassionate and respectful way, for to characterize the policy and procedure which has been pursued in what I believe to be a fitting manner would require the use of language more forceful and pointed than I care to use in a communication of this character. If the situation were not so serious, it would be somewhat relieved by the large element of grim humor it contains in the assumption that the Government is to secure at some time in the future the extravagant prices which have been laboriously figured out, and that therefore those responsible for the classifications have added hundreds of millions to the national wealth by the simple process of giving free rein to their imagination.

It should be remembered that most of the coal in the public lands, estimated to underly at least 50,000,000 acres, is lignite, or subbituminous coal, and compared with the best bituminous coals of the eastern part of the United States is of low grade; little of it will make coke, and much of it would not be sold in competition with high-grade bituminous coal.

The prices fixed by classification in all the better fields are, however, very much higher than the average prices asked by private owners for the high-grade bituminous coal contained in lands in Illinois, Kentucky, Tennessee, West Virginia, and elsewhere. The surface of much of the coal lands in the States mentioned is valuable, while the surface of most of the Government coal lands is of trifling value, and can be secured by homesteading, and yet the average classified prices are higher than is asked for the better coals and highly valuable surface in States adjacent to markets. A disinterested investigation will prove the truth of these assertions.

It is perhaps a matter of no present material consequence, though rather ridiculous, that lands containing, or which are believed by the Geological Survey to contain, lignite coal of poor or medium quality, and so remote from transportation and markets as to have no present value for coal, should be valued at hundreds of dollars per acre, but it is a matter of the highest immediate importance that coal lands in the vicinity of means of transportation, and for the product of which enterprising men are willing to take a chance of finding a market, are held at prices which prohibit development, create a monopoly in the mines now in operation, and thus materially advance the price of coal to the consumer in a country having millions of acres of coal lands. The net result of the classification policy in the Rocky Mountain region has been to prohibit the opening of new mines and to increase the price of coal to the consumer from 50 cents to $1 per ton.

While the major portion of the coal lands in fields of fair or good quality, and where transportation makes development possible, have been valued for sale at from $200 to $450 per acre, the highest price at which any public coal land has been sold is $180 per acre, and only two 40-acre tracts at that price, tracts probably essential to the extension of developed mines. In 1909 80 acres were sold at $135 per acre; one tract of 160 acres was sold at $75 per acre; and with these exceptions and one sale of 40 acres at $65 per acre no coal lands have been sold at more than $50 per acre.

The total sales of coal lands at prices above $30 per acre since September, 1907, when the first classified lands were sold, have been as follows:

	Number of acres.
$35	239
40	720
45	240
50	7,650
65	40
75	161
135	80
180	80
Total acres	9,210

When we take into consideration that this constitutes the entire coal-land sales by the Government in over four years at classified prices above $30 in Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Oregon, Utah, Washington, and Wyoming, where the Government owns millions of acres of classified lands rated far above the highest price paid by these purchasers, we can realize how the coal industry has been paralyzed by the prohibitive prices which have been placed on coal lands.

It is conceded that if these exorbitant prices are retained on coal lands and the remainder of the public coal lands are listed at the same excessive prices eventually some high-priced land will be sold, for as the privately owned coal lands are worked out, and the coal sold at the prices which the Government monopoly makes possible, the time will come when the necessities of the people for fuel will compel the purchase of some of the Government land, no matter how high the price may be, and the people of the West will be compelled to pay liberally for the monopoly thus fostered by Government policy. In the meanwhile no complaint has been or will be heard of the new policy of exacting the last possible penny for Government coal lands from the coal operators who own large bodies of coal lands. The plan is an ideal one for them.

If it is to be urged that the high price now asked for Government coal land, far above what the most grasping private owner would think of asking, will conserve our coal, we must admit that it will have that tendency by taking coal from the category of a necessity and placing it among the luxuries. But this is a Government policy which is not likely to be tolerated in a region whose fuel resources are inexhaustible. Practically none of the coal from what is now Government land can ever be profitably shipped east of the Missouri River, and if it could, Wyoming alone could supply the entire country at our present rate of consumption for over 700 years, according to Government estimates.

The question of the disposition of the coal on Government land, so far as the use of the coal is concerned, is one affecting only the people of the country west of the Missouri, and the people of that region, not blessed, as is the territory farther east, with bountiful supplies of high-grade bituminous coals, but nevertheless fortunate in an inexhaustible supply of coal such as it is, should not be expected to agree to a policy which creates a monopoly by Government action and which contemplates laying on them and their descendants a burden for fuel amounting to may hundreds of millions of dollars, no part of which is proposed to be returned to the people who pay it.

I trust you will find time to give this matter your careful consideration at an early date. The policy of prohibitive coal-land prices which proposes a grievous burden on our people and an entire reversal of our governmental policy has never been approved by Congress or formally indorsed by any branch of our Government. It has simply grown out of the activities of a single bureau of the Interior Department, and it has been suggested that the determination to force a coal-leasing system on the country is largely responsible for the prohibitive prices at which coal lands have been classified. If the leasing system has virtues and advantages, and no doubt it has some, they should be apparent enough to bring about the adoption of the system otherwise than by prohibiting sales of coal lands through hostile administration of the coal-land law and prohibitive or grievously burdensome coal-land prices.

The coal-land law, as now interpreted by the department, is inadequate in that it renders practically impossible the assembling of a sufficient area for a modern mine. The policy of selling at a classified price high enough to discourage purchases of coal lands purely for speculation or future development has its advantages, with our law as interpreted, in protecting operators unable to secure large holdings against purchases by others of land in advance of and necessary to the extension of their operations with a view of speculation at their expense; but this merit and such others as may be claimed for the system of classification are entirely negatived by the extraordinary prices adopted, which create a burdensome monopoly in coal lands and lead to a monopoly of coal prices. We shall in all probability never return to the normal prices named in the coal statute, but every consideration of sound public policy dictates values that shall not lay grievous burdens not contemplated by Congress on the users of coal in one portion of our country, and every proper purpose claimed for the policy of classification will be served by values high enough to discourage the purchase of coal land for speculation. The experience of the last few years seems to indicate that, with the possible exception of very rare cases, $50 per acre is about a fair maximum rather than $500.

Very respectfully, yours,

F. W. MONDELL.

The present coal-land law, applicable to all of our public coal lands except those in Alaska, and under which the system of sales at classified prices is being carried on, is as follows:

COAL-LAND LAWS.

SEC. 2347. Every person above the age of 21 years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding 160 acres to such individual person, or 320 acres to such association, upon payment to the receiver of not less than $10 per acre for such lands where the same shall be situated more than 15 miles from any completed railroad, and not less than $20 per acre for such lands as shall be within 15 miles of such road.

SEC. 2348. Any person or association of persons severally qualified as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the preceding section, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than $5,000 in working and improving any such mine or mines, such association may enter not exceeding 640 acres, including such mining improvements.

SEC. 2349. All claims under the preceding section must be presented to the register of the proper land district within 60 days after the date of actual possession and commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within 60 days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of 3 months from the 3d day of March, 1873, 60 days from the expiration of such 3 months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of 6 months from the 3d day of March, 1873.

SEC. 2350. The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section 2348 shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice or to pay for the land within the required period the same shall be subject to entry by any other qualified applicant.

SEC. 2351. In case of conflicting claims upon coal lands where the improvements shall be commenced, after the 3d day of March, 1873, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the 3d day of March, 1873, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Commissioner of the General Land Office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

SEC. 2352. Nothing in the five preceding sections shall be construed to destroy or impair any rights which may have attached prior to the 3d day of March, 1873, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

The coal-land laws applicable to Alaska differ from the above in some particulars, made necessary by reason of the lack of land surveys there, but most essentially in a provision in the act of 1904 fixing a uniform price of $10 per acre on coal lands in that District.

As all coal lands in Alaska have for sometime past been withdrawn from sale by Executive order, the law is not now operative, except as affecting rights claimed or established prior to legal withdrawal.

WHAT IS TO BE OUR FUTURE POLICY?

Leaving out of consideration for the present the question of coal in the District of Alaska—a question which many people seem to be unable to discuss without arriving at a condition bordering on hysteria—and speaking only of our policy as affecting our public-land States and Territories, I have been favorable to a continuation of the policy of the sale of coal land, not necessarily at the minimum prices fixed by law, but at some reasonable price high enough to prevent the purchase of coal land for speculation or with a view of controlling coal fields, yet not so high as to establish all the evils of monopoly through governmental action.

There are many arguments in favor of a policy of gradually disposing of public coal lands under proper restrictions. It has been our almost invariable policy since the foundation of our Government, and our temporary departure from the policy in the case of the lead mines was disastrous.

Under this policy with regard to coal lands, with perhaps a partial exception in the case of the anthracite mines, there has been no combination, so far as I am informed, among coal operators to raise prices. If there has, it has not been successful, for competition has resulted in uniformly low prices for coal at the mines.

As a matter of fact, the price of coal at the pit mouth has been so uniformly low as to lead Government officials and others who are interested in the maintenance of conditions of safety in the mines and in minimizing the loss of coal in mining to lament the fact that keen competition resulted in prices so low as to tempt and almost compel operators to disregard measures of precaution, and to leave in the mines considerable quantities of coal because it could not be brought to the surface and sold at prevailing prices without actual loss.

The average price per ton of bituminous coal at the mine in the United States, according to the reports of the Geological Survey, fell from $1.25 a ton, in 1880, to less than $1 a ton, and as low as 80 cents a ton in the nineties, from which time prices have ranged as follows:

1905	$1.06
1906	1.11
1907	1.14
1908	1.12
1909	
1910	

Not only do these figures indicate that the coal operators who own their mines have not been securing an exorbitant price for their coal, but they clearly indicate the contrary, to wit: That the price of coal at the pit mouth has been uniformly low, too low, as has been pointed out by Government officials, to warrant the operators bringing all of the coal in their workings to the surface or to encourage them in adopting the best methods for insuring safety in the mines.

It is true that there has been well-grounded complaint on the part of consumers as to the prices paid by them, through increases in the price of coal after it leaves the producer, due to transportation charges and the cost and profits of distribution. These things can not be cured by retaining the ownership of coal lands in the hands of the Government; they must be remedied through enforcement of the interstate commerce and anti-combination laws.

The history of our marvelous development under the stimulous of private ownership is a most forceful argument in favor

of the continuation of such a policy, while the countless problems which will necessarily present themselves, including conflict of State and national police control and regulation; the questions as to how far the Federal Government may legally or wisely become a permanent landlord within the States; the extent to which the Federal Government is justified in considering, as a source of Federal revenue, the products of public lands; as to what effect permanent Federal landlordism shall have upon the few Western States where such a policy can alone be established; are all matters which may well give us pause before entering upon the new, untried, and altogether revolutionary system of permanent Government landlordism.

AS TO ALASKA.

While holding the views I have expressed, I have felt it my duty as a public official to give heed to expressions of views and opinions contrary to those I have held; and while occupying the position of chairman of the Committee on Public Lands of the House I felt a peculiar responsibility to take cognizance of views and opinions expressed both in Congress and throughout the country concerning public-land policies.

Feeling it my duty as chairman of the committee having charge of public-land matters to respond to what I understood to be a widespread opinion, that we should put to the test of trial in Alaska a coal-land leasing system, and realizing that conditions in Alaska might warrant or even demand such a system whether or no it would be wise in the States, surrounded as they are with conditions of private ownership, and realizing further the importance of a fair test, if one was to be had, both in the interest of future development of Alaska and as an object lesson elsewhere, I framed with great care and after full consideration a bill which I introduced in the House on the 25th day of January, 1911, and which was reported out in February. The said bill, together with amendments thereto made in committee, is as follows:

A bill (H. R. 32080) to provide for the leasing of coal lands in the District of Alaska, and for other purposes.

[Committee amendments in italics; matter stricken out in brackets.]

Be it enacted, etc., That all lands in the District of Alaska containing workable deposits of coal are hereby reserved from all forms of entry, appropriation, and disposal, except under the provisions of this act: *Provided*, That nothing herein contained shall in any manner affect any claims or rights to any such coal lands heretofore asserted or established under the land laws of the United States, and all such claims and rights shall be treated, passed upon, and disposed of as though this act had not been passed.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized, for and on behalf of the United States, to issue licenses granting the holders thereof the right to prospect and explore for coal on the vacant public lands in the District of Alaska and to execute leases authorizing the lessee to mine and remove coal from such lands. No license [or lease] shall pertain to an area of more than 3,200 acres, *and no lease shall pertain to an area of more than 2,560 acres*, and all such areas shall be in reasonably compact form and conform to the public land surveys in all cases in which said surveys have been extended over the lands. No prospecting permit shall be issued for a longer period than three years [, but upon a showing of due diligence on the part of the lessee in prospecting and exploring, the Secretary of the Interior may, in his discretion, extend the license for a period not exceeding one year]. All licensees shall pay in advance a fee of 25 cents per acre for the first year covered by their license, 50 cents per acre for the second year, and $1 per acre for the third year [, and at the same rate for any extension of the license]. Lessees shall pay in advance a rental of 25 cents per acre for the first calendar year, or fraction thereof, 50 cents per acre for the second year, and not less than $1 and not more than $4 per acre for each succeeding year. The sums paid for rent by a lessee shall in every case be a credit upon the royalties that may be due for the same year. All lessees shall pay a royalty on each ton, of 2,000 pounds, of coal mined, as follows: From the passage of this act until the end of the calendar year 1920, not less than 3 cents nor more than 6 cents per ton; for the succeeding 10 years, not less than 5 cents nor more than 8 cents per ton; for the succeeding 10 years, not less than 5 cents nor more than 10 cents per ton; and thereafter as Congress may provide. All leases shall be granted for such period as the lessee shall designate, but in no event for more than 30 years; but all lessees who have complied with the terms of their leases shall have a preferential right to an extension of their lease for a period not to exceed 20 years upon such conditions and the payment of such rents and royalties as Congress may prescribe.

SEC. 3. That any person over the age of 21 years who is a citizen of the United States, or any association or corporation composed of such persons, may apply for a permit to prospect for, or a lease to mine, coal in the District of Alaska, and upon compliance with the provisions of this act and the rules and regulations promulgated thereunder shall be granted a license or lease as provided herein, but no person, association, or corporation, or stockholder therein shall, during the lifetime of such permit or lease, receive or be permitted to hold, directly or indirectly, any other permit, lease, or license, or any interest therein, to coal lands in Alaska under the provisions of this act.

SEC. 4. That applications for prospecting licenses and mining leases, and all payments on same, shall be made to such officer and in such manner as the Secretary of the Interior may designate, and in all cases where more than one application shall be received for a license or lease covering the same area, in whole or in part, preference shall be given to the qualified applicant who shall show prior possession with a view of acquiring title to coal lands or prospecting for or mining coal, and reasonable diligence in applying for such license or lease, but the holder of a prospecting license shall have a preference right, during the period of his license, to apply for and obtain a mining lease to the lands covered by his license: *Provided*, That the Secretary of the Interior may adjust the boundaries of conflicting applications in such manner as will best promote the public interest [, by affording opportunities for speedy development].

SEC. 5. That all applications for licenses or leases shall describe the lands applied for according to the public-land surveys or private surveys which may have been approved by the United States surveyor general, or if on unsurveyed land by description by metes and bounds and reference to natural objects or permanent monuments as will readily identify the same. No license or lease shall be issued until after publication of the application therefor at least 30 days in some newspaper of general circulation in the land district in which the land is located and an opportunity has been given for the hearing of any protests which may be made during the period of publication against the issuance of such license or lease, and no lease covering unsurveyed land shall be issued until a survey shall have been executed, at the expense of the lessee, by or under the authority of the Secretary of the Interior, permanently marking the outboundaries thereof and subdividing the same according to the rectangular system of surveys. Licenses may be canceled by the Secretary of the Interior after reasonable notice for failure to pay rent when due.

SEC. 6. That all leases issued under the provisions of this act shall be upon the condition that the lessee shall proceed with due diligence to open a coal mine or mines on the leased premises and to produce coal therefrom during the life of the lease in such quantity as the condition of the market shall justify. *That the lessee shall not during the lifetime of the lease receive or hold, directly or indirectly, any other lease under the provisions of this act or interest therein.* That he shall not monopolize, in whole or in part, the trade in coal. That he will at all times sell the coal extracted from the leased premises at just, fair, and reasonable rates, without the giving of rebates or drawbacks, and without discrimination in price or otherwise, as between persons or places for a like product delivered under similar terms and conditions. That the mining operations shall be carried on in a workmanlike manner with due regard to the permanence of the mine, without undue waste, and with especial reference to the safety and welfare of the miners. That the leased premises and all mines opened thereon and all maps and records of coal production shall at all times be subject to inspection and examination by such officers as may be provided by law or designated by the Secretary of the Interior for such purpose. That the lessee shall observe, abide by, and conform to all of the provisions and limitations of this act, and that he shall pay promptly all rents and royalties when due; and the Secretary of the Interior or any person in interest may institute in the United States district court for division No. 1, District of Alaska, appropriate proceedings for the enforcement of the terms of the lease or for its cancellation for violation of the terms thereof or of the provisions of this act. Appeals from the decisions of the said court shall lie to the United States circuit court of appeals for the ninth circuit. Said leases shall also be upon the condition that the United States shall, at all times, have a preference right to take, wherever found, so much of the product of any mine or mines, opened upon the leased land, as may be necessary for the use of the Army or Navy or Revenue-Cutter Service, and pay such reasonable and remunerative price therefor as may be fixed by the President, but the owner of any coal so taken who may be dissatisfied with the price thus fixed shall have the right to prosecute suits against the United States in the United States district court for division No. 1, District of Alaska, for the recovery of any additional sum or sums claimed to be justly due upon the coal so taken.

SEC. 7. That no lease shall be granted or issued until the applicant shall have given a bond to the United States in such sum and with such surety as the Secretary of the Interior may prescribe for the payment of [all] the rents and royalties and for the due and faithful compliance with all the terms and conditions of the lease. The existence of such bond shall be no bar to the institution of a suit for the enforcement of the terms of the lease or for its cancellation for the violation of the terms thereof or the provisions of this act, and a judgment of forfeiture of the lease shall be no bar to the enforcement by legal proceedings of the bond given in behalf of the lease.

SEC. 8. That no license or lease shall be assigned, mortgaged, or sublet, except to a person, association, or corporation qualified to receive and hold an original license or lease under the provisions of this act, and with the written permission and approval of the Secretary of the Interior; and whosoever succeeds to the interest of the licensee or lessee by foreclosure, purchase, or assignment shall be subject to all the limitations and obligations contained in the license or lease or in this act.

SEC. 9. That a license or lease may be terminated at any time on the application of the licensee or lessee and the payment of all rents and royalties which may be due, but no lease shall be terminated until the Secretary of the Interior shall have had an opportunity to have an examination made into the condition of the property and such reasonable provision shall have been made for the preservation of any mine or mines which may have been opened on same, as he may require. Upon the cancellation of the lease or its expiration, or upon the forfeiture thereof and the satisfaction of any judgment rendered in the decree of forfeiture *and the payment of all rents and royalties due*, the retiring lessee may, under the supervision of the Secretary of the Interior, remove or dispose of all of the machinery, buildings, or structures upon the leased premises, except such structures as may be necessary for the preservation of the mines.

SEC. 10. That no prospecting license issued under the provisions of this act shall give the licensee the exclusive use of any of the lands covered by his license, except for the purpose of prospecting and exploring the same, but all lessees under the provisions of this act shall enjoy the exclusive use of the surface, providing that this exclusive use shall in no wise interfere with the establishment and use of all necessary roads and highways, so located as not to interfere with the mining operations, and the granting by the Secretary of the Interior of such rights of way across such lands as may be necessary for use in the production, handling, or transportation of coal or other products of the District of Alaska.

SEC. 11. That the Secretary of the Interior is hereby authorized to issue limited mining leases to applicants qualified under section 3 of this act, and to municipal corporations, a tract not exceeding 160 acres in extent, and covering a period not exceeding 10 years, for the mining of coal for use in the District of Alaska. Such limited leases shall, in addition to the above limitations, be subject to all of the conditions of the general leases issued under the provisions of this act, except that a renewal of such lease shall be discretionary with the Secretary of the Interior and that the acquisition or holding of such limited lease shall be no bar to the acquisition or holding of a general lease provided for in this act, nor shall the holding of a general lease be a bar to the acquisition or holding of a limited lease.

SEC. 12. That 75 per cent of all the moneys derived from licenses and leases granted under the provisions of this act shall be paid into and constitute a part of the "Alaska fund" in the Treasury of the United States, provided for and created by the act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January 27, 1905, and may be expended for the purposes described in said act; and the residue of the moneys derived from such licenses and leases shall be paid into the Treasury of the United States and constitute a part of the general fund of the Treasury. [That the Secretary of the Interior shall make all necessary rules and regulations for carrying out the provisions of this act.]

SEC. 13. That the reservation contained in section 1 of this act shall not prevent the location and patenting of lands containing workable deposits of coal under the mining laws of the United States with a view of extracting metalliferous minerals therefrom. But licenses and leases provided for in this act may be issued without regard to the fact that the lands may be covered by mining locations, and the Secretary of the Interior shall provide by appropriate regulation for the observance by licensees, lessees, and locators of the respective rights of each: *Provided*, That all patents issued under the mineral laws to such lands shall reserve to the United States all the coal contained therein, together with the right to provide for the prospecting for and mining of the same.

SEC. 14. [That the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof or supplemental thereto are hereby extended to and made operative within the District of Alaska.] *That the act of February 4, 1887, entitled "An act to regulate commerce," and all acts amendatory thereof, are hereby extended to and made applicable to the District of Alaska in so far as the transportation of coal is concerned; and for the purpose of administering said acts in Alaska with regard to the transportation of coal the jurisdiction of the Interstate Commerce Commission and of the Commerce Court is hereby extended to the District of Alaska.* That the Secretary of the Interior is hereby authorized and directed to make all necessary rules and regulations in harmony with the provisions of this act needful and necessary for the administration of the same.

It was unfortunate that opportunity was not given for fair consideration of this measure. I had been so constantly urged, as chairman of the Committee on Public Lands, to bring to the attention of the House a bill providing for the leasing of the coal lands of Alaska that I felt it my duty to seek consideration for the measure in the House, though the only opportunity given was consideration, under suspension of the rules requiring a two-thirds majority, after only 40 minutes of debate.

The criticisms made of the bill, during the altogether too brief period of discussion, were on the ground that the area of the lease—2,560 acres—was too large, and that the royalties proposed—from 3 to 10 cents per ton—were too small. There was also criticism from one source of the departure from the sale and inauguration of the lease system in Alaska.

Prior to the defeat of the above legislation in the House, Senator NELSON had introduced in the Senate, and the Senate committee had reported, Senate bill 9955. This bill was never considered in the Senate. The bill, with the committee amendments, is as follows:

A bill (S. 9955) to provide for the leasing of coal and coal lands in the Territory of Alaska.

[Committee amendments in italics; matter stricken out in brackets.]

Be it enacted, etc., That all lands within the Territory of Alaska to which patents have not been earned or to which vested right has not been acquired, and which contain deposits of coal, or of lignite, or [associated] *related* minerals, which for the purposes of this act shall be called coal, and the coal therein, are hereby reserved from all forms of entry, appropriation, and disposal except under the provisions of this act [: *Provided*, That all other minerals in such lands shall be expressly reserved to the United States and from disposition under this act] *and the laws relating to mineral other than coal, and in all patents hereafter issued under such laws coal shall be expressly reserved to the United States.*

SEC. 2. That any person above the age of 21 years, who is a citizen of the United States, or any association or corporation of such persons, may, in writing, apply to the Secretary of the Interior for a license to prospect and explore for coal, or for a lease to mine and extract coal from a coal deposit or mine, on any of the lands of the United States in the Territory of Alaska, not exceeding an area of [3,200] *2,560* acres in any one license or lease, under such regulations and limitations, not inconsistent with this act, as the Secretary of the Interior may prescribe. The applicant for such license or lease shall in his application, if the land be surveyed, describe the land applied for by the subdivisions of the survey, and if the land is not surveyed then by permanent monuments placed at the exterior corners of the land, with the courses and distances between the same. The Secretary of the Interior may reject such application if it appears to him that it is not made in good faith or that it involves a purpose to monopolize the output or supply of coal or to control the price of the same. If the Secretary of the Interior approves of the application for a license to prospect and explore, he may, on behalf of the United States, under his hand and the seal of his office, issue to the applicant a license to prospect and explore for coal, to the exclusion of anyone else, the land applied for, not exceeding an area of [3,200] *2,560* acres in a compact body *not less than 1 mile wide nor more than 4 miles long*, for a term not exceeding two years, for a compensation of 25 cents per acre for the first year and 50 cents per acre for the second year, with the privilege of leasing, before the expiration of the license, the coal mines or coal deposits on the land upon the terms and conditions hereinafter prescribed. Such license shall be issued in triplicate and one copy thereof shall be filed in the Interior Department, one copy with the register of the land office in the district in which the lands are situate, and one copy delivered to the licensee. The Secretary of the Interior may, in his discretion, if all the conditions of the license have been duly complied with, extend the term of the license for an additional year at a compensation of $1 per acre. The licensee can not assign his interest in the license without the consent of the Secretary of the Interior, nor to anyone not qualified to obtain such license in the first instance; and no person, firm, association, or corporation shall acquire or hold, directly or indirectly, more than one such license. *And this act shall not be construed to debar any person from prospecting and exploring for coal on any lands in Alaska not included in any subsisting license.*

SEC. 3. That if the Secretary of the Interior approves of an application for a lease, made as hereinbefore prescribed, he is hereby authorized, in his discretion, under such rules and regulations as he may prescribe, to lease, on behalf of the United States, to the applicant, the coal deposits or coal mines on an area of not to exceed [3,200] *2,560* acres of land, in a compact body, for the purpose of mining, extracting, and disposing of the coal, for a period of 30 years, at a royalty to the United States of 5 cents per ton run of mine of coal extracted, if the lease is made within 10 years from the date of the passage of this act, and if the lease, or any renewal thereof, is made after that period, [then] at a royalty of not less than 6 cents nor more than [15] *10* cents per ton, and in addition to such royalty a rental [is to] *shall* be paid the United States annually at the beginning of each year as follows: Fifty cents per acre of the leased premises for the first year, $1 per acre for the second year, $2 per acre for the third year, and $4 per acre for each and every year thereafter during the continuance of the lease. Such rental for any year shall be credited upon the royalty accruing during that year. Every such lease granted under the provisions of this act shall be upon the conditions that the lessee will not monopolize, or attempt to monopolize, in whole or in part, the trade in coal; that the lessee will at all times sell the coal extracted from the leased premises at just, fair, and reasonable rates, and without any discrimination in price or otherwise, as to persons or places; that the Interstate Commerce Commission shall, upon its own initiative, or upon the complaint of an aggrieved party, have the same power to pass upon, determine, and prescribe the present and future rates at which the coal shall be sold by the lessee as is given the said commission by the provisions of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof or supplementary thereto, in respect to the transportation rates charged by common carriers; and that the lessee will conform to the rates prescribed by the said commission; and upon the further condition that the mining of the coal shall be carried on with reasonable skill and care, without undue waste, and with due regard to the safety and welfare of the miners.

SEC. 4. That the Secretary of the Interior shall, on behalf of the United States, under his hand and the seal of his office, execute in triplicate a written lease of the leased premises to the lessee, which shall contain all the terms and conditions hereinbefore prescribed and such other fair and reasonable conditions and provisions as the Secretary may in his discretion prescribe. One copy of the lease shall remain on file in the Interior Department, one copy of the same shall be filed in the office of the register of the land office in the district in which the leased premises are situate, and one copy shall be delivered to the lessee. No lease shall be executed until the leased premises have been [duly] surveyed by the United States, or under its authority *at the instance and expense of the lessee*, and the leased premises shall be described in the lease in conformity with [the subdivisions of] such survey. The leased premises shall be in a compact body and shall not be less than 1 mile wide nor more than 4 miles long. The Secretary of the Interior may, in his discretion and upon good grounds, extend and renew a lease for an additional period of 10 years, but in such case the royalty shall not be less than 6 cents nor more than [15] *10* cents per ton run of mine of the coal extracted. The lessee shall not, without the consent of the Secretary of the Interior, assign his interest in the leased premises to anyone else, nor shall he assign the same to anyone who would be disqualified from obtaining the lease from the United States in the first instance. And no person, firm, association, or corporation shall, directly or indirectly, acquire or hold by assignment, or otherwise, more than one lease. And if any member of a firm or association, or any stockholder of a corporation, is disqualified from obtaining a lease to mine or a license to explore, the firm or association of which he is a member and the corporation of which he is a stockholder is also disqualified: *Provided, That no transportation company and no stockholder in any company interested in, operating or controlling, any transportation lines in Alaska shall be interested, directly or indirectly, in any lease made under the provisions of this act.*

SEC. 5. That the licensee or lessee shall have the right to the use of the surface of the land so far as necessary for operations under the license or lease. The [leasee] *lessee* may at any time, with the consent of the Secretary of the Interior, terminate the lease upon furnishing the Secretary with satisfactory evidence that the supply of workable coal in the leased premises has been exhausted, *or that a further mining of the same will prove unprofitable.* In case the licensee fails to comply with the terms of his license, or the lessee fails to comply with the terms and conditions of his lease, the Secretary of the Interior may institute a proceeding, or suit in [the court of appeals of the District of Columbia] *any United States district court for the ninth circuit* for the purpose of securing a decree, or judgment, forfeiting the license or lease, as the case may be, and the said court is hereby given jurisdiction of such suit, or proceeding, and its judgment, or decree, shall be final: *Provided, however*, That it shall be competent for the [Supreme Court of the United States] *circuit court of appeals of the ninth circuit* by certiorari to review, modify, reverse, or affirm the same, as in case of an appeal or writ of error.

SEC. 6. That no license or lease shall be granted or issued until the licensee or lessee shall give a bond to the United States in such sum and with such surety as the Secretary of the Interior may prescribe for the payment of all royalties and rents, and for the due and faithful compliance with all the terms and conditions of the lease or license. And the existence of such bond shall be no bar to the institution of a suit to forfeit the license or lease, as provided in the preceding section of this act; and a judgment of forfeiture of the license or lease shall be no bar to the enforcement, by legal proceedings, of the bond given in behalf of the license or lease.

SEC. 7. That in case a license is terminated by expiration of time, or in case a lease is terminated by expiration of time, or in the manner prescribed by section 5 of this act, and all the claims and demands of the United States in respect to the same have been liquidated, the licensee or lessee may remove such structures, machinery, and fixtures as he may have placed upon the land covered by the lease or license. The United States shall in all cases have a first lien, *subject to the prior lien of laborers and material men*, upon all such structures, machinery, and fixtures for all royalties, rents, or other claims that may be due or accrue in respect to any lease or license. In case of a decree of forfeiture of a license or lease the court shall, in its decree, determine and prescribe the disposition that shall be made of the structures, machinery, and fixtures on the premises affected by the decree.

SEC. 8. That the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue to any applicant qualified under section 2 of this act a limited license granting the right

to prospect and mine [for domestic use, and to dispose of for local consumption,] *and dispose of* coal belonging to the United States, in specified areas, not to exceed 40 acres to any one person, or association of persons, in any one coal field, for a period of not exceeding 10 years, on such conditions, not inconsistent with this act, as in his opinion will safeguard the public interest, on the payment of a royalty per ton of coal as herein prescribed: *Provided*, That the acquisition or holding of a lease under the preceding sections of this act shall be no bar to the acquisition or holding or operating under the limited license herein prescribed.

SEC. 9. That the Secretary of the Interior is hereby authorized to perform or cause to be performed any and all acts, and to make and to incorporate in said license or lease such rules and regulations as he may deem necessary and proper for the purpose of carrying the provisions of this act into full force and effect. The said Secretary is further authorized to prescribe and incorporate in each license or lease, under the provisions of this act, the terms and conditions under which each licensee or lessee may mine, extract, and dispose of the [associated] *related* minerals described under section 1 of this act.

SEC. 10. That the Interstate Commerce Commission is hereby empowered, upon its own initiative, or upon the complaint of an aggrieved party, after due hearing, to pass upon, determine, and prescribe the present and future rates at which coal, mined on the leased premises, shall be sold by any lessee under this act, *and to prescribe the rates at which coal may be transported in the Territory of Alaska*, in the same manner and to the same extent as in the case of the transportation rates of common carriers under the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof or supplementary thereto. And the determination and decision of the commission may be reviewed, reconsidered, and revised in the same [court] *courts*, in the same manner, and to the same extent as in the case of common carriers under the provisions of said acts.

SEC. 11. That [one-half] *three-fourths* of all the moneys derived from licenses and leases granted under the [preceding] provisions of this act shall be paid into and constitute a part of the "Alaska fund" in the Treasury of the United States, provided for and created by the act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January 27, 1905, and may be expended for the purposes described in said act; and the residue of the moneys derived from such licenses and leases shall be paid into the Treasury of the United States and constitute a part of the general fund of the Treasury.

SEC. 12. That it shall be the duty of the Secretary of the Interior to ascertain as soon as may be whether any of the coal deposits in the Territory of Alaska are suitable and well adapted for the use of the Navy of the United States, and if such deposits are found, the Secretary, under the direction of the President, may withhold and withdraw the same from exploration and lease under the preceding provisions of this act. That the Secretary of the Interior, in conjunction with the Secretary of the Navy, under the direction of the President, may, on behalf of the United States, under such rules and regulations as they may prescribe, lease, *or operate*, such coal deposits [to a lessee or lessees qualified to take a lease under the preceding sections of this act for the purpose of mining and extracting the coal] and [supplying] *supply* the [same] *coal so mined* to the Navy and the Revenue-Cutter Service of the United States at an agreed price per ton[, to be specified in the lease, and as to such coal furnished the United States as aforesaid, no rental or royalty shall be paid therefor by the lessee, but the same shall be taken into account in fixing the price at which the coal is to be supplied to the United States].

SEC. 13. That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from all kinds of settlement, location, sale or entry, any land in the Territory of Alaska, requisite for the opening and development of a deposit of coal, or requisite for a right of way to or from such deposit, or requisite as a site for wharfage for the handling, storage, or shipment of coal, and such right of way and such wharfage site shall be open to the free use of any lessee under this act in respect to any operations carried on under his lease, but this provision shall not be construed to give a free right of way or free wharfage site to any railroad company in respect to its railroad or railroad terminal.

[SEC. 14. That all existing laws relative to the sale or disposal of coal deposits in Alaska and all other laws or portions of laws in conflict herewith are hereby repealed.]

Senator NELSON'S bill fared no better than mine at the hands of those who were supposed to be favorable to the policy of a coal-leasing law; in fact, from some such whose views as so-called conservationists are widely quoted, the Nelson bill received especial notice and condemnation, and the criticisms of it were numerous and vigorous and directed, among other things, to the area proposed as the maximum lease, to wit, 3,200 acres in the original bill, 2,560 acres as amended; to the amount of royalty, from 5 to 15 cents in the original bill, from 5 to 10 cents as amended; and to various other provisions, which, while drastic in form, were not considered sufficiently so.

Since the defeat of the Alaska coal bill in the House, those who are honestly desirous of the enactment of legislation which will make possible a proper, orderly, and permanent development of the coal lands in Alaska, and who are willing to surrender their personal views in order to secure legislation which will make it possible to relieve the people of Alaska and adjacent American territory from the burden of the extremely high prices which they must pay for foreign coal, have been at a loss to know just what kind of legislation would be acceptable to those who, while insisting that something should be done to afford relief from the intolerable conditions, seem to be very difficult to please when it comes to details of legislation. Recent events have perhaps thrown some light, temporarily at least, on this interesting subject.

On the 31st day of July the gentleman from Arkansas [Mr. ROBINSON], chairman of the Committee on Public Lands, introduced a bill (H. R. 13113) to provide for the leasing of coal and coal lands in the Territory of Alaska. This measure was immediately unqualifiedly indorsed from high and influential sources, representing, I take it, the views of those who, while heretofore insisting on radical changes in the laws affecting the disposition of coal lands in Alaska, have not been pleased to look with favor upon any of the legislation which has been proposed. The bill last referred to is as follows:

A bill (H. R. 13113) to provide for the leasing of coal and coal lands in the Territory of Alaska.

Be it enacted, etc., That all lands within the Territory of Alaska to which patents have not been earned, or to which vested right has not been acquired, and which contain deposits of coal, or of lignite or associated minerals, which for the purposes of this act shall be called coal, and the coal therein, are hereby reserved from all forms of entry, appropriation, and disposal, except under the provisions of this act and the laws relating to minerals other than coal, and in all patents hereafter issued under such laws coal shall be expressly reserved to the United States.

SEC. 2. That any person above the age of 21 years who is a citizen of the United States, or any association or corporation of such persons, may, in writing, apply to the Secretary of the Interior for an exclusive license to prospect and explore for coal, or for an exclusive lease to mine and extract coal from a coal deposit or mine on any of the lands of the United States in the Territory of Alaska, not exceeding an area of 5,120 acres in any one license or lease, under such regulations and limitations, not inconsistent with this act, as the Secretary of the Interior may prescribe. The applicant for such license or lease shall in his application, if the land be surveyed, describe the land applied for by the subdivision of the survey, and if the land is not surveyed, then by permanent monuments placed at the exterior corners of the land, with the courses and distances between the same, and said applicant for such license shall have three months after placing said monuments and recording the same as provided by law in the case of placer locations in which to secure a license. The Secretary of the Interior may reject such application if it appears to him that it is not made in good faith or that it involves a purpose to monopolize the output or supply of coal or to control the price of the same, or that it is contrary to the public interest. If the Secretary of the Interior approves of the application for a license to prospect and explore, he or his authorized agent may issue to the applicant a license to prospect and explore for coal, to the exclusion of anyone else, the land applied for not exceeding an area of 5,120 acres in a compact body, the size and shape of said area to be determined by Secretary of the Interior, for a term not exceeding two years, for a compensation of 10 cents per acre for the first year and 25 cents per acre for the second year, with the privilege of leasing before the expiration of the license the coal mines or coal deposits on the land upon the terms and conditions hereinafter prescribed: *Provided*, That at the time of issuing such license the said Secretary may notify said licensee of the exact terms upon which he will subsequently lease coal mines or coal deposits within or near the area covered by the license, so far as the same can be determined in advance. The Secretary of the Interior may, in his discretion, if all the conditions of the license have been duly complied with, extend the terms of the license for an additional year at a compensation of 50 cents per acre. Said licenre may be terminated by the licensee after three months' previous notice to the Secretary of the Interior. The licensee shall not assign his interest in the license without the consent of the Secretary of the Interior, nor to anyone not qualified to obtain such license in the first instance; and no person, firm, association, or corporation shall acquire or hold, directly or indirectly, more than one such license at any one time. And this act shall not be construed to debar any person from prospecting and exploring for coal on any lands in Alaska not included in any license then in force, nor from prospecting on any lands in Alaska for ores or minerals other than coal.

SEC. 3. That if the Secretary of the Interior approves of an application for a lease, made as hereinbefore prescribed, he is hereby authorized, in his discretion, under such rules and regulations as he may prescribe, to lease on behalf of the United States to the applicant the coal deposits or coal mines on an area of not to exceed 5,120 acres of land, in a compact body, the size and shape of said area to be determined by the Secretary of the Interior: *Provided*, That the length of said area shall not be more than three times its width, for the purpose of mining, extracting, and disposing of the coal, for a period of not more than 30 years, at a royalty to the United States of not less than 1 cent for low-grade coals and 3 cents for high-grade coals per ton of 2,000 pounds run of mine of coal extracted, the exact royalty for any period to be determined by the Secretary of the Interior and inserted in the lease in accordance with a classification hereby authorized to be made by him of said coal and other coals in Alaska and in accordance with local and mining conditions. A rental shall be paid the United States annually at the beginning of each year as follows: 25 cents per acre of the leased premises for the first year, 50 cents per acre for the second year, $1 per acre for the third year and each and every year thereafter during the continuance of the lease. Such rental for any year shall be credited upon the royalty accruing during that year. Every such lease granted under the provisions of this act shall be upon the conditions that the lessee will not monopolize, or attempt to monopolize, or unduly restrain the trade in coal; that the lessee will proceed to develop the coal diligently and within a period to be fixed in the lease; that the lessee will at all times sell the coal extracted from the leased premises at just, fair, and reasonable rates; that the Interstate Commerce Commission may, upon its own initiative, or upon the complaint of an aggrieved party, pass upon, determine, and prescribe, as provided in section 10 of this act, the present and future rates at which the coal shall be sold by the lessee; and that the lessee will conform to the rates prescribed by the said commission; and upon the further condition that the mining of the coal will be carried on with reasonable skill and care, without undue waste, and with due regard to the safety and welfare of the miners.

SEC. 4. That the Secretary of the Interior, or his authorized agent, shall execute a written lease of the leased premises to the lessee, which shall contain all the terms and conditions hereinbefore prescribed, and such other fair and reasonable conditions and provisions, including the maximum rate at which the lessee shall sell the coal, and provision for the periodical revision of said rate, all such rates, however, to be subjected to revision by the Interstate Commerce Commission as provided in sections 3 and 10 of this act, as the Secretary may in his discretion prescribe. No lease shall be executed until the leased premises have been surveyed by the United States, or under its authority, at the instance and expense of the lessee, and the leased premises shall be described in the lease in conformity with such survey. The leased prem-

ises shall be in a compact body of such size and shape as may be approved by the Secretary of the Interior. The Secretary of the Interior may, in his discretion and upon good grounds, extend and renew a lease for an additional period of 10 years, but in such case the royalty and rental shall not be less than the royalty and rental last paid under the original lease. The lessee shall not, without the consent of the Secretary of the Interior, assign his interest in the leased premises to anyone else, nor shall he assign the same to anyone who would be disqualified from obtaining the lease from the United States in the first instance. And no person, firm, association, or corporation shall, directly or indirectly, acquire or hold by assignment or otherwise more than one lease: *Provided*, That no transportation company and no stockholder in any company interested in, operating, or controlling any transportation lines operating in or to Alaska shall be interested, directly or indirectly, in any lease made under the provisions of this act: *And provided further*, That any interest in any such lease, including any stock ownership in a corporation holding a lease, which interest may be acquired through assignment or otherwise by a person, firm, association, or corporation disqualified from obtaining a lease under this act, shall be forfeited by such person, firm, association, or corporation to the United States unless said interest shall be disposed of by and absolutely transferred from such holder, after notice given to such holder so to dispose thereof by the Secretary of the Interior, within a period to be fixed by said Secretary in said notice.

SEC. 5. That the license or lease shall convey the right to the use of so much of the surface of the land and the timber thereon only as may be necessary for operations under the license or lease, as the Secretary of the Interior may decide, and thereupon the remainder of said surface may be entered, located, and appropriated in accordance with the land laws applicable in Alaska: *Provided*, That the timber necessary for mining shall be cut and removed under rules to be prescribed by the Secretary of Agriculture. The lessee may at any time, with the consent of the Secretary of the Interior, terminate the lease upon furnishing the Secretary with satisfactory evidence that the supply of workable coal in the leased premises has been exhausted, or that a further mining of the same will prove unprofitable, or upon notice of one year to said Secretary without such evidence. In case the licensee fails to comply with the terms of his license, or the lessee fails to comply with the terms and conditions of his lease, or in case of attempted evasion by the lessee of the rates for sale of coal as fixed under this act, either through colorable sales thereof to a corporation subsidiary to said lessee, or to any person or corporation controlled by said lessee, the Secretary of the Interior may institute a proceeding, or suit, in any United States District Court for the Ninth Circuit for the appointment of a receiver to enforce the lease, for securing a decree or judgment forfeiting the license or lease, or both, as the case may be, and the said court is hereby given jurisdiction of such suit, or proceeding, and its judgment or decree shall be final: *Provided, however*, That it shall be competent for the Circuit Court of Appeals of the Ninth Circuit by certiorari to review, modify, reverse, or affirm the same, as in the case of an appeal or writ of error: *Provided further*, That like proceedings shall be taken to enforce the forfeiture provided in section 4 of this act.

SEC. 6. That no lease shall be granted or issued until the lessee shall give a bond to the United States, in such sum and with such surety as the Secretary of the Interior may prescribe, for the payment of all royalties and rents, and for the due and faithful compliance with all the terms and conditions of the lease. And the existence of such bond shall be no bar to the institution of a suit to forfeit the lease, as provided in the preceding section of this act; and a judgment of forfeiture of the lease shall be no bar to the enforcement, by legal proceedings, of the bond given in behalf of the lease.

SEC. 7. That in case a license is terminated by expiration of time, or in case a lease is terminated by expiration of time or in the manner prescribed by section 5 of this act, and all the claims and demands of the United States in respect to the same have been liquidated, the licensee or lessee may remove such structures, machinery, equipment, and fixtures owned by him upon the land covered by the lease or license as, in the opinion of the Secretary of the Interior, can be removed without injury to the future operation of the mine. The United States shall in all cases have a first lien, subject to the prior lien of laborers and material men, upon all such structures, machinery, and fixtures for all royalties, rents, or other claims that may be due or accrue in respect to any lease or license. In case of a decree of forfeiture of a license or lease, the court shall, in its decree, determine and prescribe the disposition that shall be made of the structures, machinery, and fixtures on the premises affected by the decree, as far as the same can be removed without injury to the mines; but the shaft, structures, and underground workings necessary to the successful protection and operation of the mine shall be left by the lessee in good order, satisfactory to the Secretary of the Interior.

SEC. 8. That the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue to any applicant qualified under section 2 of this act a limited license granting the right to prospect and mine and dispose of coal belonging to the United States on specified tracts, not to exceed 40 acres to any one person or association of persons in any one coal field, for a period of not exceeding 10 years, in such conditions, not inconsistent with this act, as in his opinion will safeguard the public interest, on the payment of a royalty per ton of coal as herein prescribed: *Provided*, That the acquisition or holding of a lease under the preceding sections of this act shall be no bar to the acquisition or holding or operating under the limited licenses herein prescribed.

SEC. 9. That the Secretary of the Interior is hereby authorized to perform, or cause to be performed, any and all acts, and to make and to incorporate in said license or lease such rules and regulations as he may deem necessary and proper for the purpose of carrying the provisions of this act into full force and effect. The said rules and regulations shall make adequate provision for safeguarding the lives of miners; for the thorough examination and inspection by the Bureau of Mines of all mining operations and conditions; for supplying by the lessee or licensee to the Secretary of the Interior, as he may require from time to time, all data and maps showing the quality, nature, and extent of the coal deposits, and the progress of the operations in each mine; for the location on maps and the adequate plugging of all drill holes in any coal field as directed by the Secretary of the Interior; and for the practice of efficient mining methods, satisfactory to the Secretary of the Interior. The said Secretary is further authorized to prescribe and incorporate in each license or lease, under the provisions of this act, the terms and conditions under which each licensee or lessee may mine, extract, and dispose of the associated minerals described under section 1 of this act. The licensees, or the lessees, or the assignees under any lease made under the provisions of this act shall furnish the Secretary of the Interior with written statements of any and all acts performed and of any and all moneys received by them under such leases, in such manner and at such times as the Secretary may require, and all books and records relating to corporate organization, ownership of stock of a corporate lessee, or to transactions under such leases shall at all times be open to inspection and examination by any officer or person designated by the Secretary of the Interior for that purpose.

SEC. 10. That the Interstate Commerce Commission is hereby empowered from time to time, upon its own initiative, or upon the complaint of an aggrieved party, after due hearing, to pass upon, change, determine, and prescribe the maximum rates at which coal, mined on the leased premises, shall be sold by any lessee under this act, and to prescribe the rates at which coal so mined shall be transported, stored, switched, lightered, elevated, or otherwise held, handled, or transshipped at terminals, docks, or elsewhere, and to prescribe the maximum rates at which said coal may be sold to consumers. In determining the maximum rates at which said coal shall be sold, the Interstate Commerce Commission shall first fix a fair, just, and reasonable price for coal at the mine, including a reasonable profit, and shall add thereto the rate for transportation and a fair, just, and reasonable rate for storage and handling. The powers herein granted to and duties imposed upon the Interstate Commerce Commission shall be exercised and performed in the same manner and to the same extent and under the same penalties as in the case of the transportation rates of common carriers under the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof or supplementary thereto.

SEC. 11. That for 20 years the whole, and thereafter one-half, of all the moneys derived from licenses and leases granted under the provisions of this act shall be paid into and constitute a part of the "Alaska fund" in the Treasury of the United States provided for and created by the act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January 27, 1905, and may be expended for the purposes described in said act; and the residue of the moneys derived from such licenses and leases shall be paid into the Treasury of the United States and constitute a part of the general fund of the Treasury.

SEC. 12. That it shall be the duty of the Secretary of the Interior to ascertain as soon as may be whether any of the coal or oil deposits in the Territory of Alaska are suitable and well adapted for the use of the Navy or other public services of the United States, and if such deposits are found, the Secretary, under the direction of the President, may withhold and withdraw any portion thereof in such locations and sizes as he may deem best, from exploration and lease under the preceding provisions of this act or from any disposition whatever. That the Secretary of the Interior, in conjunction with the Secretary of the Navy, under the direction of the President, may, on behalf of the United States, under such rules and regulations as they may prescribe, lease or operate such coal deposits and supply the coal so mined to the Navy, Army, and the Revenue-Cutter Service of the United States at an agreed price per ton.

SEC. 13. That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from all kinds of settlement, location, sale, or entry any land in the Terrtiory of Alaska requisite for the opening and development of a deposit of coal, or requisite for a right of way to or from such deposit, or requisite as a site for wharfage for the handling, storage, or shipment of coal, and such right of way and such wharfage site shall, subject to the regulation and discretion of the Secretary of the Interior, be open to the free use of any lessee under this act in respect to any operations carried on under his lease, but this provision shall not be construed to give a free right of way or free wharfage site to any railroad company in respect to its railroad or railroad terminal.

It will be noted that the above bill follows quite closely in its language and provisions the bill of Senator NELSON, but that it contains some important changes from that measure and radical enlargement of the powers proposed to be conferred upon the Interstate Commerce Commission. I have no disposition to criticize the provisions of this bill which has not as yet been considered by the committee. I simply call attention to some of them by way of comparison and query.

The Nelson bill was criticized, as was also the bill introduced by myself, on the ground that the proposed area of the lease was too large. Curiously enough this bill, now indorsed in high quarters, doubles the area of the lease proposed in former bills and fixes it at 5,120 acres. It also reduces the royalty to a minimum of 1 and 3 cents per ton, depending on quality and condition.

The measure is entitled to careful consideration if expressive of the views of those who would go furthest in governmental control under a leasing system. It seems to be predicated on the theory that it may be entirely proper to put all of the available coal in a given field under the control of a single powerful corporation, providing the Federal Government shall exercise an intimate supervision of all operations to the extent of establishing a maximum price for the commodity wherever found and regardless of the number of hands it may have passed through.

So far as I have heard expressions of opinion by people in my own State and adjacent States touching the Government's land policy, both with regard to coal lands and other minerals, the sentiment has been almost uniformly in opposition to the establishment of a Federal leasing system. In almost every case in which an opinion tolerable to a leasing system has been expressed it has been based on the proposition that as to coal lands, if the Government bureaus are to continue to insist upon prohibitive sale prices, and as to related minerals, particularly mineral fuels, if continued withdrawals are to prevent entries under the present law, there is practically nothing left but to go to a leasing system.

Such expressions of toleration of a leasing system have, however, I assume, been based upon the idea that the Federal Government as a landlord would not attempt to set aside and override the police powers of the States and to establish a policy of paternal surveillance and control over all of the operations of the lessees to the extent of fixing by law the prices at which products may be sold within a State.

If it is understood that the leasing system necessarily carries with it all of these extraordinary extensions of Federal authority, even the few who now favor a leasing system as the only possible means of escape from conditions intolerable by reason of land withdrawals or high prices for coal lands are likely to withdraw their support of such a policy.

I question the wisdom and propriety of the details of the policy proposed in the Robinson bill, because I can not conceive them to be within the legitimate scope or functions of the Federal Government, but, on the contrary, most dangerous proposals of centralization liable to the most flagrant abuse. I have no sort of a question but what, under such a system, powerful corporations, centralizing coal operations, would be largely relieved from the present pressure of competition and enabled to secure the legal right to charge and receive much higher prices than they would otherwise receive for their products. Instead of such a system relieving the citizens from any burdens or exactions, it is very clear to me that its final effect would be to legalize much greater burdens and exactions than they would otherwise have to bear.

If no relief can be hoped for from the prohibitive sale prices now fixed by departmental action and the same interpretation of the sale law which now prevails and practically prohibits the acquisition of enough land for a fair-sized coal operation shall continue, the West, particularly the Intermountain States, which are most interested, may be compelled to accept a leasing law. It may be, of course, that the people of those States may eventually conclude that a proper leasing law would be a good policy, but I am confident that in no event will they give their assent to any leasing legislation containing paternalistic and centralizing provisions, the effect of which, when applied to vast and widespread industries, would materially alter the relations with the Federal Government of the people of the States affected, as compared with those sustained by the people of other States of the Union; neither will they consent to the fixing of permanent burdens in the way of royalties. They will insist on maintaining that equality of right and privilege with the citizens of other States which the Constitution guarantees them. My opinion is that the only workable leasing system under our form of Government is one which would eventually be under the control and jurisdiction of the States. It is conceivable that such a system might be worked out in a manner that would be advantageous to the people, but a policy which proposes an unending burden on consumers for the benefit of the National Government and provides for permanent national control over the local industries of States, thereby depriving the people of control through their legislators and State courts, can not, in my opinion, ever commend itself to the masses of our people.

I submit as interesting expressions of opinion on these subjects three letters which I have received within a few days, and which are as follows:

JULY 5, 1911.

Hon. FRANK W. MONDELL,
Washington, D. C.

MY DEAR SIR: I note—"special to the Tribune," Cheyenne—your letter to the Secretary of the Interior touching the present policy of high valuations of Government coal lands. This letter puts the prevailing conditions, as I read it, fairly and consistently before the department; that it will receive careful investigation and consideration is to be hoped.

A more momentous question could not be presented at the present time, as it affects every home and every industry in coal-producing States, as well as in nonproducing States. This can be verified by consulting the Wyoming, Colorado, Utah, and Idaho State papers during the past decade.

During the years from 1890 to 1897, there was no demand for coal. Mines, mills, and railroads ceased operations; the small consumer, being out of employment, had no means to purchase what he needed; but by wise legislation during 1897 and years following, mills, mines, and railroads resumed operations, and there was smoke out of every man's chimney. To make smoke we needed coal; hence the unusual activity in and about mines. There being a scarcity of coal, the prospector—he who blazes the trail—hied himself into the hills in search of ten and twenty dollar per acre coal lands which he could, under these figures, purchase and develop. Then followed the present desultory system by the department, promulgated in a problematic manner, called "classified coal lands," which has created the most beautiful idea of a coal monopoly—a perfect beau ideal.

We have here within 3 and 4 miles of railroad many sections of coal lands. In one part is a "vein' 10 to 12 feet, lignite on the surface, "classified" price $150 per acre; another discovery about 5½ feet "vein," good quality, classified price, $50 per acre. All of these sections are being developed more or less each year. In one instance two men have been constantly employed for the past 18 months driving entries and headings. For a while consumers hereabouts were permitted to take the coal taken out by the men doing the development work, but this has been stopped by order of the department; the coal is now being dumped into the sagebrush. I inclose herewith under separate cover "photos" showing the openings and dumping of such coal, the miner's cabin, the stable, and hay corral.

We are paying $3.50 for coal here, notwithstanding the sagebrush is being destroyed by the prospector dumping coal thereon; all of which is caused by reason of this classified method.

I feel that I should submit a remedy, if I can. Your heart is in the right place—with the people who are suffering by reason of present conditions which are enforced by the department and without any positive law; by rules only. I feel that if the department could be shown the error of its ways in this connection, they, or it, would modify the system.

In my judgment, there are but two ways for relief: First, by a lease for, say, 50 years. With a tax for the Government of about 2 cents per ton; mine to be operated under a competent, practical coal miner, no theoretical man. Second, reduce the cost per acre to $10 and $20, perhaps the first suggestion is best. The result would be: The protection of life to employees; the protection of property; the taking out at least 90 per cent of the coal, instead of the prevailing method of getting out but about 60 per cent; the reduction of cost to the consumer of about $1 per ton, as the output would be increased to such an extent that the present combinations could not dictate entirely.

Under the present system, as you know, one or two men in each State direct the output, and the Government dictates the undeveloped sections, and so it goes. I have no coal filings, but am interested in the development of our resources; to reduce to the minimum accidents to employees; to protect property; to the conservation of our coal.

In conclusion, I feel that I have taken sufficient of your time; hence, will say, if you wish further facts in connection with this subject, I will be pleased to furnish same upon request. I feel that you are deserving of such facts and figures as can be obtained from persons "on the ground" to aid you in your efforts to have the department modify, at least, the present classified system of coal lands.

Wishing you success in your efforts, with kind wishes, I remain,

Very truly,

———— ————.

JULY 8, 1911.

Hon. F. W. MONDELL,
House of Representatives, Washington, D. C.

MY DEAR MR. MONDELL: You will recall that in the past I have had much correspondence with you concerning the intolerable conditions existing in relation to the acquisition and mining of coal lands. The law as it now stands, in conjunction with the price that the Interior Department has placed upon coal lands, is prohibitive.

It is needless for me to go into detail, except to say that under the ruling of the Department of the Interior an individual can not acquire 160 acres of land if, in contemplation thereof, he intends to organize a company of sufficient capital to build a branch railroad and pipe line to his coal claim—and in this arid and mineralized country you must get your water supply by tapping the streams—together with mining plant, dumps, etc., because such act on the part of the entryman or purchaser of the coal land is interpreted as acquiring coal land for the use and benefit of other parties besides himself. Hence the Interior Department has placed the entire coal business in the hands of great capitalists. No one, except the wealthiest of mankind, can engage, under its rulings, in the coal business.

A certain coal company which has long operated in this field is getting short of coal. If it should be forced out of business because of its inability to acquire more coal lands, it would practically give the one large operator a monopoly of the entire coal business in this vicinity. Unless some remedial legislation can be enacted the conditions will become unbearable.

It is suggested that a leasing proposition would be a relief. You will remember that I wrote to you sometime ago upon this subject, and in answer to my letter you expressed the thought at that time that some measure of this sort ought to be introduced. Do you think that the conditions have developed to such an extent that you could introduce a bill that would help out the situation?

I would be pleased to hear from you on this subject and remain,

Yours, truly,

———— ————.

JUNE 8, 1911.

MY DEAR SIR: This company is very desirous of securing a section of Government coal land.

This section belongs to the United States, and is under the control, as we understand it, of the United States Land Office. The value that has been placed on this land runs from $385 to $435 per acre. The terms of purchase, as I understand it, are cash. In round numbers, we figure that there are 640 acres of land in this section, which would make the price about $253,000. The drilling which we have done on this land indicates that there is about 12,000,000 tons of workable coal under same, which, on the basis of the above figures, would amount to approximately 2.10 cents per ton.

The conditions are such at the present time that we do not like to invest our money in any more fee properties, but we would be very glad to pay a higher royalty than the above figures would indicate under a lease of the land similar to those under which the lands are leased in Oklahoma, where the royalty is about 8 cents per ton, and on this basis we estimate the amount the Government would receive from this section would be $960,000, as against $253,000 on cash purchase. In other words, the compensation to the Government, it would appear, would justify them in leasing rather than selling this land, as it would give them a considerably greater annual and total revenue from the property than they would otherwise secure.

I understand that an attempt was made at the last session of Congress to pass a law authorizing the Land Department to lease coal lands.

Lands similar to the section to which we refer, located in the State of Illinois, can be purchased for $25 per acre or leased at about 2.5 cents per ton royalty, the veins of coal running from 7 to 9 feet in thickness, and not being at an excessive depth, with operating conditions considerably better than they are in Wyoming.

We feel that the Government should lease this land, because the price they have placed on it is so high as to make it prohibitive, and, again, in any event, we could not purchase more than 160 acres, and we would not be justified in going to the expense on that size tract that would be necessary to operate a coal property.

A properly equipped mine to develop this property would cost in the neighborhood of $125,000 to $150,000, and this in itself should be a guaranty to the Government that we are acting in good faith.

The reason that we are anxious to secure this property is that it is near our present operations in that district and close to transportation; further, we are now exhausting our present holdings at that point, and in order to meet the necessities of the country and our own necessities in the way of increased tonnage, we must secure additional lands.

Anything that you can do to assist us in connection with securing this acreage will be very greatly appreciated.

If there is any further information that you desire in addition to what I have already given you, please advise me, and I will be glad to furnish it.

Yours, truly, ——— ———.

Publicity in Campaign Contributions.

SPEECH

OF

HON. RUFUS HARDY,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, August 17, 1911,

On the conference report on the bill (H. R. 2958) to amend an act entitled "An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected."

Mr. HARDY said:

Mr. SPEAKER: I took leave to extend my remarks in the RECORD on this publicity bill chiefly in order that the people whom I represent might know why I support this measure. Sir, I am a believer in a strict construction of the Constitution, and I am a believer in the doctrine of local self-government and of State rights in all matters not by the Constitution of the United States placed in the power of the Federal Government. I believe that only those powers expressly or by fair and just implication, authorized by the Federal Constitution, can rightly be exercised by the Federal Government, and that all other powers—that is, all powers not so delegated to the Federal Government—are reserved to the States and should be jealously preserved for the States. I believe that not the slightest encroachment by the Federal Government on these reserved powers and rights of the States ought at any time to be permitted, and I know that such encroachment can never be justified.

Gentlemen, many of them, oppose this measure on the ground that it is an encroachment by the Federal Government on the reserved rights and powers of the States. If I thought so, however much I wish to see corruption in congressional elections put down, I should oppose the bill. I do not believe in stretching the implied powers of the Federal Government beyond a fair and just implication, beyond the powers fairly and justly implied from the express terms of the Constitution, in order to accomplish a beneficent purpose. If I thought this bill offended my faith in this respect I should and would oppose it.

But, Mr. Chairman, I do believe that every express grant of power or right or authority to the Federal Government contained in the Constitution carries with it every authority naturally incident and necessary to make the express grant effective and complete.

So far as I am aware, no Democrat, nor any statesman of any persuasion, has ever questioned this principle. Primary elections or conventions are not named in the Constitution, and therefore there is perhaps no express authority therein for congressional regulation of primary elections and conventions, and therefore gentlemen contend that Congress has no right to pass laws affecting such primary elections or conventions; but, sir, by express terms, Article I, section 4, of the Federal Constitution clothes Congress with the power to prescribe the manner of holding elections of Congressmen and Senators, and section 5 of the same article provides that "each House shall be the judge of the elections, returns, and qualifications of its own Members." Under these provisions it has been held without question that the final election is justly subject to the jurisdiction of Congress, and a Member-elect either to the House or Senate may be unseated if he procured his election by fraud or bribery in the so-called final election.

If a Senator bribes a member of the legislature to vote for him when he is about to cast his vote, such Senator may be unseated. Is it contended that if a Senator by bribery of the citizen voter procures the election of enough legislators, who are otherwise unbought, to elect him to the Senate that he may not be unseated? In my opinion wholesale bribery of electors whereby a Senator elects his tools to the State legislature and thereby causes himself, without further bribery, to be elected to the United States Senate would be absolutely just and constitutional grounds for the ejection of any Senator, notwithstanding you could show no bribery or fraud in the final election by the legislature. The Constitution does not provide for final or for primary elections, but for elections; and whatever constitutes a part of the final result is part of the election.

If elections were like party nominations, frequently made by delegated agents, it might well happen that the final agents who finally nominated or elected were unbribed, and yet the final result, the final election, be the result of the foulest corruption.

Without attempting to elaborate, sir, further—a thing which every man can readily do for himself—I believe that whatever constitutional power Congress has over elections of its Members it has over every step and proceeding necessary or incident to such elections, and this power is hardly less express as it relates to primary elections and nominating conventions than as it relates to what is called final elections. Certainly the general and express power to regulate elections justly implies every power that is needed in order to really and effectively regulate the final election, and you can not regulate the final election unless you can regulate the means by which it is brought about. The power to regulate and judge of elections means the power to go to the root and bottom of the election and dig out fraud and corruption, root and branch.

The people want clean, honest elections. They want no more tools of corrupt interests, who have bought their way into Congress holding commissions as their representatives; they want no man who will debauch the voters of his country sitting in high places, lest, having debauched his countrymen, he sell his country.

For one, I want a law that will guarantee honest elections. This law is not perfect; it will not do all that is desired, but it will be a beginning, and believing that it is clearly within the implied, if not express, grant of the Federal Constitution, I vote for it.

The Late Senator Daniel.

MEMORIAL ADDRESS

OF

HON. WILLIAM G. BRANTLEY,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 24, 1911.

On the following resolution (H. Res. 223):

"*Resolved*, That the business of the House be now suspended that opportunity may be given for the tribute to the memory of Hon. JOHN W. DANIEL, late a Senator from the State of Virginia.

"*Resolved*, That as a further mark of respect to the memory of the deceased, and in recognition of his eminent ability and illustrious public services, the House, at the conclusion of these memorial services, shall adjourn.

"*Resolved*, That the Clerk communicate these resolutions to the Senate.

"*Resolved*, That the Clerk be instructed to send a copy of these resolutions to the family of the deceased"—

Mr. BRANTLEY said:

Mr. SPEAKER: JOHN WARWICK DANIEL, late a Senator from the Commonwealth of Virginia, came into life on September 5, 1842, and passed away in death on June 29, 1910. His days upon earth were a little under the allotted three-score years and ten given to man, but in them he lived an extraordinarily full life. The deeds he wrought by tongue and pen and sword illumine the pages of our country's history.

Springing from a long line of illustrious ancestry and cradled in the arms of the Old Dominion State, much was to have been expected of him, and much he gave. Great is the handicap of him who in our day and in his day, claiming Virginia for a mother, seeks to climb the hill of fame, for there is no State within the Republic so rich in illustrious names as is Virginia. In these names is written that of which our country is proudest in law, in government, and in patriotism. Such names as Washington, Jefferson, Madison, Marshall, Henry, Lee, Randolph, Tyler, Jackson, and many others that could be mentioned belong to the Nation. Virginia begot them but the Nation claims them. They are a part of our history. The fact that Senator DANIEL, with the handicap of these names, carved one for himself worthy and proper to take its place beside them is perhaps the most significant event of his great career. It is characteristic of human nature, be it a fault or a virtue, to unduly magnify the achievements of those who have passed beyond life's estate and into the realms of eternity, but none who knew Senator DANIEL and none who read after him will assent that his just fame can

be magnified. His was a wonderful personality in the variety of the great talents given him. There have been great orators, but how many great orators have also been great soldiers and great law writers? There have been great advocates in the courthouse, but how many of them have also written learned treatises on the law?

Senator DANIEL had eloquence, but to eloquence he added learning; to learning he added patriotism, and to patriotism he added courage. He was possessed, too, of a courtliness of manner that added much to the charm of his striking personality. He was soldier, statesman, orator, and lawyer. He was all of these in one and one in all. In each vocation he wrote his name high on the scroll of fame. Entering the Confederate Army at 18 years of age in the ranks of the privates, he was discharged after the Battle of the Wilderness wounded for life, with the rank of major and chief of staff. His courage and daring, his alertness, and his mastery of the science of war, all forecasted still higher military rank for him could he have remained in the service.

His book, Daniel on Negotiable Instruments, is known to every lawyer and every court in our land, while his book on "Attachments" is also widely known. His services as a statesman are to be found in the records of both branches of his State legislature and in both branches of the National Congress. For 23 years he sat in the Senate, and although he had not completed his fourth term there, he had already been elected to a fifth. His voice was often heard in clear, logical, and eloquent debate. It was as a persuader of men by his marvelous gift of speech that he was most widely known. Whether in the forum of the Senate or the bar, on the hustings, in our national conventions, or on memorial occasions he was ever the one man eloquent "at whose feet all could sit and learn the art of eloquence." But to me the greatest charm about him was that his superb powers were always directed toward inculcating patriotism and to the preservation of our Government as it was written. He believed in the Declaration of Independence as Jefferson penned it; he loved the glorious country that Washington "saved," and he trusted to the uttermost the Constitution of which Madison was the "father."

The evil of the day in which we live is that we are so far removed from the formation of our Government that too many have forgotten, if they ever knew, why or how it was formed. The people, as they reach maturity, see a government around and about them, but whence it came or how it is to be maintained too few stop to inquire. The work of the fathers of the Republic was as an open book to Senator DANIEL. He knew that when they came to build our Government they had before them the models of all the Governments of all the world, and setting them all aside, planned one the like of which the world had never seen. Senator DANIEL knew the fathers deliberately rejected the plan of a pure democracy, because it had failed in the Republics of old, and builded instead a representative government. He knew that they purposely divided the powers of government into three great departments, the legislative, executive, and judicial, and he knew why they did so. He also knew why they divided the government of the State and the Nation, giving to each a power of its own and making each in its proper sphere independent of the other, and thus created a dual government.

Ignorance of our history and ignorance of our Government has suggested the most of the new "isms" of government so prevalent in the discussions in our day. If all knew the history of each part of our government and understood the wonderful checks and balances in its formation, there would be no clamor to change it in any fundamental respect. To convert a representative government of over 92,000,000 people into a pure democracy would be to substitute for the present Government one of brutal tyranny by a majority over a great minority, resulting in rebellions and revolutions such as have stained the fair name of other lands in all the ages of the world. Our written Constitution, without an independent judiciary to construe it and enforce it, would soon be but so much waste paper. The State government was designed to keep the people in close touch with that government dealing directly with their local affairs, while through their chosen Representatives they would always have a voice in the affairs of the Nation. The power of government was purposely distributed between three great departments, each the equal of the other, so that the one would ever be a check upon the other and arbitrary power be forever unknown.

No patriotic citizen will contend that conditions to-day are ideal and can not be improved upon, nor did Senator DANIEL so contend. His contention was that we should hold fast to that which we know to be good, and instead of seeking a pure Democracy with its initiative, referendum, and recall we should restore to the State government all of its constitutional functions and restrict the National Government within the limitations prescribed for it by the Constitution, and in doing so see to it that the three great departments of Government neither one encroaches the one upon the other and that our judiciary, the last refuge of liberty, is kept forever free and independent.

Senator DANIEL knew but too well that the safety of our Republic rests upon the patriotic intelligence of the people. He learned this from the teachings of Thomas Jefferson, and his every environment in historic Virginia confirmed it. Patriotism is a vital necessity for the preservation of liberty and constitutional government, but patriotism to be effective must be accompanied by intelligence. These thoughts come naturally and uncontrollable in reviewing the life of Senator DANIEL, for they are thoughts embodied in his life and teachings. He was one of the grand figures in our legislative government. He came to manhood's estate to be at once baptized in fire and blood. His manhood was early tried. His devotion to his mother State and his patriotism were early tested and proved. All the problems of war and of peace came to him for solution, and as they came they found his patriotism and his master mind ready. His environment, his experience, his training, and his heritage all combined to make him the true patriotic statesman that he was. He contributed greatly to his country's glory; he did much to ennoble and enthuse his fellows; and he did his full share in molding and directing public sentiment along patriotic lines. Constitutional government owes something to him for its preservation thus far, and all of us who labored with him and are yet left to serve are the better able to do our humble parts because of the inspiration of his teaching and example. His people honored him greatly, and greatly he honored them. His name and his fame here, at home, and throughout the land must be secure as long as love of liberty and devotion to Republican institutions live in the hearts of the people.

New Mexico and Arizona.

SPEECH

OF

HON. JOHN E. RAKER,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 22, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona—

Mr. RAKER said:

Mr. CHAIRMAN: House joint resolution 14, introduced on April 4, 1911, by the distinguished chairman of the Committee on the Territories, is entitled "Joint resolution approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona." The resolution consists of two sections, the first dealing with the admission of New Mexico, the second dealing with the admission of Arizona, and both declaring that the constitutional convention of each Territory was elected in accordance with the terms of the act of Congress, which we know as the enabling act; that the conventions duly met and adjourned and the constitutions framed by these conventions were subsequently ratified, adopted by the qualified electors of each Territory, and that these constitutions, being republican in form and not repugnant to the Constitution of the United States and to the principles of the Declaration of Independence, be, and the same are hereby, approved. Speaking for myself, I should have been glad to support that resolution instead of the substitute reported by the majority of the committee. As between the majority and minority reports I need not say that I stand with the majority. I think both Territories should be admitted as States at once.

Confining myself to a discussion of the admission of Arizona in accordance with the terms of the enabling act, which is entitled:

An act to enable the people of Arizona to form a constitution and State government and to be admitted into the Union on an equal footing with the other States.

I should have been glad for this Congress to approve the constitution of Arizona, with its many excellent features, of which I shall presently speak, and especially for its adoption of those progressive measures known as the initiative, the ref-

erendum, and the recall. But we are confronted with a peculiar condition. One House of Congress is Democratic, the other Republican; and by the terms of the enabling act, which can not be amended without the consent of the Senate and a Republican President, the President has the right to disapprove the constitution of Arizona and to deny for another term of years the blessings of self-government to the people of Arizona, a people who have proved themselves as capable of self-government as any people of these United States.

It is evident from the report of the committee, favoring the substitute resolution, that the proposition for the people of Arizona to vote again on the recall and to say whether they wish the recall applicable to judges as well as to other servants of the people was originated because of the desire to obviate the objections of the President to the recall as applied to judges. The report says:

The controlling reason of the committee for proposing this change was the objection of the President of the United States to the recall provision of the Arizona constitution, so far as it applied to the judiciary, and the belief on the part of the committee that if the recall as applied to the judiciary was again submitted to the people of Arizona it would meet the objection of the President.

It is not, therefore, on Democratic initiative, but by reason of temporary Republican complications that we have proposed that Arizona shall vote again on the recall of judges. It is purely a matter of expediency, as we do not care to sentence the people of Arizona to two more years of waiting, while the people of this United States continue the work of reform started last fall and a Democratic President and Senate come to the assistance of the Democratic House. And I for one welcome the issue which the President has made. He has made it not only with the Democratic Party but with a very powerful element of his own party.

The gentleman from Massachusetts [Mr. McCALL] created quite a diversion the other day in the newspapers. The following clipping is from the press report of his recent speech in Newark:

Representative McCALL, of Massachusetts, who spoke at the banquet at Newark, roused the crowd, numbering more than 1,000, to enthusiasm when he came out flatfooted against the recall of judges. Mr. McCALL said the referendum and recall raised the issue between direct government and representative government. Experiment in direct democratic government, he said, has been tried under favorable conditions and among the most intelligent peoples that ever existed; such a government, he continued, has reflected the popular passion of the moment rather than settled public opinion, and has generally shown itself fickle, unstable, and the prey of demagogues.

"Would Lincoln," he asked, "have escaped recall in 1862 after a long series of unsuccessful battles, and with the great organs of public opinion ranged against him?"

The gentleman from Massachusetts is on safe ground in speculating as to what might have happened in the past. I can only say with regard to his speculation that I do not believe the people who were engaged in saving this great Union were so lacking in common sense as to have dismissed Mr. Lincoln from the Presidency. I confess I do not share the profound distrust of the people at large, with which the gentleman from Massachusetts is afflicted. We do not know what the people of the United States would have done in 1862, but we do know what they did do in 1863. They concluded that it was unwise to swap horses while crossing a stream, and reelected Mr. Lincoln by an overwhelming majority. As to the experiments in direct popular government in past ages, I suppose the gentleman from Massachusetts is aware of the fact that the so-called democracies existing in Greece, especially that of Athens, were in reality oligarchies, and that the fate which befell those Republics may be more fairly charged to the absence of really popular government than to the evils of democracy. I hold with Jefferson, in one of the greatest of his political proverbs, that "the remedy for the evils of democracy is more democracy."

In making this plea for the admission of Arizona and this defense of its constitution as it is, I am reminded of the error of another distinguished son of Massachusetts, Mr. Webster, who indulged in the prophecy concerning the future of the State of California. History has been proverbially careless with the reputation of prophets. We have heard a good deal of derogatory talk of the same kind concerning Arizona.

Being somewhat familiar with the Territory and its people, I wish to insert in the RECORD a description of the Territory, found in the report of the Committee on Territories made January 15, 1910:

ARIZONA.

Arizona was a part of the territory acquired from the Republic of Mexico by the treaty of Guadalupe-Hidalgo, February 2, 1848, and by the Gadsden purchase of December 30, 1853, and was a part of the original Territory of New Mexico, from which it was separated and organized into a Territory in 1863.

It is 378 miles long by 339 miles wide and contains 112,920 square miles, or 73,000,000 acres. By the census of 1900 it had a population of 122,931, of whom 26,480 were Indians, being 1.1 persons to the square mile.

The census of 1900 has always been declared by the people of Arizona to have been inaccurate in that it did not give the Territory as many people as it was claimed were there, it having been impossible for enumerators, because of great distances and lack of time, to completely cover the ground. When the question of statehood was under consideration three years ago, representatives from the Territory asserted well-supported claims that the population was not less than 175,000.

A comparison of the vote cast in 1900 and in 1910 shows that the population in 1900 was 122,000, and for 1910 it was 204,354, an increase of 66 per cent over the census of 1900.

There is no reason to suppose the percentage of illiteracy is any greater than it was three years ago when it was estimated by the governor to be not more than 1 per cent.

The Territory has two normal schools, with buildings and property valued at approximately $300,000.

It has a university (in connection with which are various other schools, such as a military institute, college of mines, and agricultural and mechanical college), with buildings and other property valued at $245,000; an insane asylum, with buildings and other property valued at $222,000; a Territorial prison, with buildings and other property valued at $136,000; and an industrial school (reformatory), with buildings and other property valued at $35,000. The capitol building, with the land upon which it stands, is valued at $160,000.

There were published in the Territory last year 18 daily and 54 weekly newspapers—3 in the Spanish language—and 3 periodicals issued monthly.

The total assessment of property for taxation for the year 1909 was $82,684,062.56. It is difficult to strike an average of the ratio of assessed value to actual value, but the governor last year estimated the actual value of property in the Territory to be $450,000,000.

While the lands of the Territory are mainly valuable for agriculture only when irrigated, no reason is known why methods of dry farming employed in various parts of the United States will not be employed in Arizona. The soil, when once irrigated, is invariably of great fertility.

Two irrigation projects now in construction, on the Colorado near Yuma and on the Salt at Roosevelt, will cost in the aggregate about $9,000,000 and will irrigate nearly 300,000 acres. It should be remembered that this irrigated territory will support a dense population.

On June 23, 1909, there were in Arizona 33 Territorial and 13 national banks, with a capital and surplus of $3,512,087.69, deposits of $16,849,510.53, and loans and discounts of $10,314,524.70.

Stock raising is an important industry, the value of live stock being estimated at $18,000,000 last year.

The forest area is said to be the largest in the United States, and the national forests cover something over 15,000,000 acres.

The chief industry is mining, and while great mineral wealth has already been developed, it is asserted that the mineral resources of Arizona, so far as developed, are small as compared with its possibilities.

The Territory has within its limits approximately 1,900 miles of railroad, as against 1,400 miles three years ago.

The bonded indebtedness of the Territory on June 30, 1909, was $3,098,275.29, which includes the indebtedness of the various counties which has been assumed by the Territories, the counties reimbursing the Territory for the interest paid.

From my own knowledge of conditions in Arizona I have no hesitation in saying that it will support a population numbered by the millions, and it is strange that so many people are as blind to the possibilities of its development as Daniel Webster was to the future of California. To one familiar with the landscape of Arizona the eloquent description in the constitution of the seal of the new State brings many a scene to mind:

The seal of the State shall be of the following design: In the background shall be a range of mountains, with the sun rising behind the peaks thereof, and at the right side of the range of mountains there shall be a storage reservoir and a dam, below which in the middle distance are irrigated fields and orchards reaching into the foreground, at the right of which are cattle grazing. To the left in the middle distance on a mountain side is a quartz mill, in front of which and in the foreground is a miner standing with pick and shovel. Above this device shall be the motto "Ditat Deus." In a circular band surrounding the whole device shall be inscribed, "Great Seal of the State of Arizona," with the year of admission of the State into the Union. May that year be this year! "God enriches," and the people of Arizona have determined that those riches are for the use and enjoyment of themselves and their children and not for exploitation by aliens. Perhaps that is one reason why there has not been any great degree of enthusiasm over the Arizona constitution in certain high financial circles. The people have won their long, hard fight already for the use of the water of their streams. While dry farming has been very successful in some regions, as in the Sulphur Springs Valley, where there is a heavy rainfall before the grain is sown, agriculture depends almost entirely upon irrigation. The constitution abrogates the common-law doctrine of riparian rights—"the water is appurtenant to the land by reason of prior appropriations and beneficial use"—and the constitution recognizes the present satisfactory status by declaring that "all existing rights to the use of any of the waters in the State for all useful or beneficial purposes are hereby recognized and confirmed."

Water in Arizona, as elsewhere, means life and fertility. Under the modern system of irrigation the soil grows more fertile by cultivation, since the water, coming down from the mountain sides, holds in solution those elements that people must elsewhere buy in the shape of fertilizers.

The population at present consists of some 30,000 Indians, 12,000 Spanish-Americans, 500 negroes, and nearly 200,000 American citizens, who have inherited the instincts and hardihood of our pilgrim fathers, the ingeniousness of the Yankee, the eloquence of the Southerner, the polish of the college bred, and the courage of the western pioneers freely mixed with the pure air of freedom that is not bound by any form of government, but sweeps at will over their vast plains.

Arizona was created a Territory and separated from New Mexico in 1863, the year of Gettysburg, while the issue was being fought out "whether a Nation dedicated to liberty could

long endure," whether or not "government of the people, by the people, and for the people should perish from the earth." It is an historical coincidence, therefore, that Arizona, born as a Territory in the midst of that conflict, should have unwittingly precipitated another far-reaching contest over the question of popular government. Her people have always longed for statehood, for that meant self-government, instead of government from Washington, where it was not always the righteous cause that gained the ear of Congress or the Executive. Like her sister, New Mexico, she has met with many disappointments. A constitution was adopted in 1891, but Congress refused admission. Later Arizona refused the compromise offered—to surrender her individuality by coming into the Union as one State with New Mexico.

The enabling act for her admission as a separate State was passed by Congress and approved by President Taft June 20, 1910. But, as was the case in Oklahoma, Federal officials, already holding office, were averse to statehood. The complaint is made that Gov. Sloan, in the exercise of the discretion given him in the enabling act, that within 30 days after the approval of the act he should order an election of delegates to a convention, the election to be not earlier than 60 nor later than 90 days after his proclamation, made it practically impossible for Arizona to present its constitution, ratified by the people, to the Sixty-first Congress. The election of delegates was held on September 12, and the convention assembled in Phoenix October 10, several days after the New Mexico convention had met under the terms of the same enabling act. The Arizona convention was in session for 61 days, and the constitution was ratified by the people February 11, 1911. The election returns were officially canvassed on Monday, February 27, but though the result was officially telegraphed on the following day, the messenger bearing the official returns could not reach Washington until March 3, the day before Congress adjourned.

Was this the will of the people or the manipulation of the officials?

During the campaign for the election of delegates the Democratic Party adopted the principles of popular government and direct legislation, the initiative, the referendum, and the recall, and, although the Territory had last sent a Republican Delegate to Congress, the Democratic position proved itself more popular than the Republican on these issues, and the convention of 52 members was composed of 41 Democrats and 11 Republicans.

There is one thing that I desire to call particularly to the attention of the Members in regard to the convention in Arizona. The convention was representative enough in several particulars. There was one Morman, one Christian Scientist, two Hebrews, one Methodist preacher, the main authority on social reforms, one Catholic, and one atheist; religious persuasion of the others not mentioned. Fourteen of the 52 members were lawyers; not an undue proportion. Cochise County boasted of a delegation of three lawyers, two miners, a plumber, a machinist, a cattleman, a railroad engineer, and a switchman—and the switchman defeated for the office of delegate to the convention the copper magnate, Col. W. C. Green, the same man who had a near personal encounter with Thomas W. Lawson in Boston some years ago. There were several other mining men, cattle kings, and sheepmen in the convention, together with one capitalist, one liquor dealer, one banker, one lumberman, one newspaper man, two merchants, and one clerk. Certainly the various faiths, conditions, callings, professions, and occupations were represented.

And there was an extraordinary fitness in the committee assignments, from the point of view of the interests of the people, at least. If you will note the personnel of the chairmen of the various committees, you will find the most important committee was that on style, revision, and compilation. The chairman of this committee was an A. M. of Harvard, professor of English in the University of Wisconsin, and later managing editor of the World's Work Magazine. Associated with him were four other university men, representing the Universities of Michigan, Utah, and Colorado. It was due to this committee that the Arizona constitution is condensed into briefer compass than that of any of the States, Vermont alone excepted, and is a model from the point of view of simplicity and pure English. The traffic expert of the Phoenix Board of Trade, which has recently won a notable contention over freight rates before the Supreme Court of the United States, was chairman of the committee on railroads. The Methodist minister was chairman of the committee on declaration of rights. A miner was chairman of the committee on labor. A successful district attorney was chairman of the committee on judiciary. A mining and civil engineer, of a famous Georgia family, was chairman of the committee on mines. An expert accountant was chairman of the committee on finance, accounts, and expense. A former President of the Senate and Clerk of the House was chairman of the committee on rules and procedure. An Ann Arbor graduate, a prominent attorney, was chairman of the important committee on public-service corporations; the entire membership being placed according to their qualifications.

And from where did the members of the Arizona convention hail? There were but three who were natives of Arizona. There was one man from England, one from Germany, one from New Zealand (a graduate of Stanford University), and one from Canada. The others were from the States of Illinois, Kentucky, Michigan, Ohio, Texas, New York, Alabama, Vermont, Virginia, Colorado, Georgia, Utah, Maryland, Tennessee, Missouri, Oregon, North Carolina, Indiana, Massachusetts, California, and Kansas. The president of the convention, George W. P. Hunt, who had been president of the Territorial Council, is a nephew of Illinois' war governor, Richard Yates, and the chaplain of the convention was one of Morgan's men. Surely, the membership of this convention was representative of their 200,000 people at home, hailing, as they did, from every section of the Union—North, South, East, and West.

Have the men of this stamp since Runymede ever been found wanting in the capacity to govern themselves or ever been content with a government lacking the consent of the governed?

Note the open and fair manner in which the business of this convention was conducted. The work of the convention was as open as the day. Only one caucus was held, that to elect the officers of the convention. There were 100 tie votes on unimportant matters, and almost every vote was a roll call, even in the Committee of the Whole. No one seemed averse to going on record as to his convictions. The proceedings were orderly and dignified, the speeches short and to the point, and the debates in important matters showed a profound knowledge of the principles of government. The members of the convention knew what they wanted and knew how to express what they wished to say. The only Democrat who refused to sign the constitution was a corporation lawyer, who frankly represented the large mining interests of a foreign corporation. The good-natured tolerance with which the convention received his keen objections to everything relating to corporations, and his biting ridicule of the "radical" measures adopted was an index of the spirit of fairness of this liberal-minded body of men.

The work of framing the constitution was done in thorough and painstaking fashion. Any member of the convention or any of the standing committees could present a "proposition" in writing, following a prescribed form. It was then read in full before the convention, and referred to the committee on printing and, in the absence of a contrary motion, reported back to the convention within two days, with 500 printed copies for the use of the convention. It was then read a second time in full and referred to the appropriate standing committee. Within eight days, unless otherwise ordered by the convention, the proposition was reported back to the body by the chairman of the committee or a member authorized to act in his place, with the committee's recommendation, the committee amendments being clearly indicated, showing the words supposed to be stricken out, inserted, or substituted, and how the propositions would read as amended. The proposition was then placed upon the calendar of the committee of the whole in the order in which it was placed before the convention, and unless recommitted previous to its final disposition, was examined and reported by the committee of the whole and placed on the calendar of the convention.

If the proposition duly passed a third reading it was ordered engrossed and referred to the committee on style, revision, and compilation, this committee having the power to revise the language used in the interest of grammatical excellence, uniformity, accuracy, clearness, brevity, and consistency, without in any way destroying the sense of the proposition as adopted by the convention. This committee then reported the revised proposition to the convention, where it was again read in full, and, if adopted by the convention, was again referred to the committee to be embodied in its proper place in the constitution. Eight days before final adjournment this committee was charged with the duty of reporting to the convention all propositions adopted, carefully revised, logically arranged, and compiled in a complete constitution, which was printed and referred to the committee of the whole. The constitution was then considered by the convention, section by section, no proposition being finally adopted without receiving the approval of a majority by an aye-and-nay vote. This draft of the constitution was then referred again to the committee on style, revision, and

compilation to be accurately engrossed and enrolled, and two days before final adjournment was again reported to the convention, read in full, and submitted to a final aye-and-nay vote, without amendment. At every stage of the proceedings every proposition considered was in printed form.

The convention finished its work on the afternoon of Friday, December 9, the completed constitution being signed by 41 Democrats and 1 Republican, 1 Democrat and 10 Republicans refusing to sign the document. After singing, with swelling hearts and halting voices, "My Country, 'Tis of Thee," the convention adjourned sine die. Acting Gov. Young immediately issued a proclamation calling an election for February 9 for the ratification or rejection of the constitution.

Nearly every newspaper in the Territory was against the adoption of the constitution by popular vote, a Republican paper of Phoenix and a Democratic paper of Globe being the only exceptions among the dailies. This hostile attitude of the Arizona press has contributed to the prejudice created throughout the country against the constitution, but the people understood that controlling corporation influences were behind the newspaper attacks. The whole power of Federal officialdom, from the governor down, the governor presuming to quote the President of the United States in opposition, was exerted against the ratification of the constitution. It was ably defended on the stump by the members of the convention and other public-spirited citizens, and 80 per cent of the vote was cast in favor of this ratification.

And now we come to the consideration, briefly, of the completed document.

There are some features of the constitution that will strike any fair-minded man as improvements over corresponding provisions in some of the older constitutional documents. The convention was not only well advised by competent scholars and thinkers within the convention itself, who had kept up with the times, but it was glad to receive expert and disinterested advice from outside.

The article on taxation, for example, followed the principles of the National Tax Reform League, and was commended by such well-known authorities as Edwin R. Seligman, of Columbia University, and Frank W. Taussig, of Harvard, as it was by Keasby, of the University of Texas; Patterson, of the University of Kentucky; and Ball, of the University of Utah.

In the bill of rights it is declared that a person can not be excused from testifying as to the giving of illegal rebates on the ground that it would incriminate him, although he can not be prosecuted for any crime his testimony may disclose. This shows acquaintance with a recent Federal statute.

In civil cases a verdict of nine or more jurors may be accepted as a verdict.

The legislature is forbidden to enact local or special laws on a large number of subjects, beginning with special divorce statutes.

The acceptance of free transportation is forbidden to all State officials.

The governor may veto separate items in an appropriation bill—a great remedy against legislative logrolling.

The supreme court shall always be open for the transaction of business save on nonjudicial days.

Judges are not allowed to charge juries with respect to questions of fact, but must declare the law only.

Superior court judges must decide every case submitted to them within 60 days unless a rehearing is ordered.

The legislature can not make such a change in the law as to work the removal of a judge from office or to lessen his salary.

The passage of a corrupt-practices act is made mandatory on the legislature. Section 1 of the article on taxation, already mentioned, reads:

> The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only.

Taxes or appropriations for private or sectarian schools or churches or public-service corporations are forbidden. A State board of equalization, in cooperation with county boards, is provided. The legislature is given power to lay every variety of taxes, including income, franchise, inheritance, legacy, and succession taxes, and graduated taxes if it please. The public lands of the State are set aside for educational income, and with respect to these lands it is provided that—

> no individual, corporation, or association shall ever be allowed to purchase or lease more than 160 acres of agricultural or more than 640 acres of grazing land.

Municipal corporations are given a large degree of home rule. A town of 3,500 people may frame its own charter without action by the State legislature. Municipal franchises, however, can only be granted for periods of 25 years or less and must be submitted to the vote of the people of the municipality for approval, and no exclusive franchise can be granted. For corporations other than municipal there are noteworthy regulations, such as that stock can only be issued to bona fide purchasers. Fictitious increases of stock are made void.

The right of eminent domain does not prevent the State from taking over the property and franchises of incorporated companies for public use, as can be done in the case of individuals. The records and books of all public-service corporations, banks, trust companies, and so forth, are subject to the visitorial and inquisitorial powers of the State. Corporations are forbidden to contribute toward election expenses.

The corporation-commission provision follows somewhat closely the lines of the Hughes public-utilities act of New York. Railroads are declared to be public highways and telegraph, telephone, express, and pipe-line companies to be common carriers. The corporation commission is given the power to fix rates, subject to an appeal to the courts, but its orders and regulations remain in force until the courts decide to the contrary. The commission is authorized to ascertain the fair value of the property within the State of every public-service corporation, and rates are to be fixed and taxes levied upon the same basis of valuation. Under the article on labor eight hours constitutes a lawful day's work in employment by the State or any political subdivision thereof; the common-law "fellow-servant" doctrine is abrogated. The defense of contributory negligence in damage suits is a question of fact to be left to the jury. The legislature is required to enact an employer's liability and a workman's compensation act.

Those who favor modern provisions for the protection of childhood will be interested in the following:

> No child under the age of 14 years shall be employed in any gainful occupation at any time during the hours in which the public schools of the district in which the child resides are in session; nor shall any child under 16 years of age be employed underground in mines or in any occupation injurious to health or morals or hazardous to life or limb, nor in any occupation at night, or for more than eight hours in any day.

The distinction between juvenile and adult delinquency is made clear by the provision—

> It shall be unlawful to confine any minor under the age of 18 years, accused or convicted of crime, in the same section of any jail or prison in which adult prisoners are confined. Suitable quarters shall be prepared for the confinement of such minors.

While in another section the legislature is required to establish and support reformatory institutions.

The article entitled "Ordinance" provides for carrying out in good faith with the United States the provisions of the enabling act.

The constitution can be amended by the submission of the amendment to the popular vote after it has been passed by a majority vote of the legislature or initiated by a petition signed by 15 per cent of the voters, but a constitutional convention can not be called unless the laws providing for the convention are submitted to a popular vote, and the amendment to the old constitution or a new constitution adopted by the convention shall be ratified by a vote of the people. The legislature is required to enact a direct primary law for all candidates for office, and an advisory vote on the candidates for the United States Senate is commanded. This is about all of the constitution of Arizona which is not to be found in most other State constitutions. For the greater part, its provisions are already embodied in the organic law which has been approved by Congress. What remains to be considered is the initiative, referendum, and recall, about which there has been such a wide discussion by the press and in the forum.

The initiative and referendum principle is clearly stated in the first section of article 4 on the legislative department:

> (1) The legislative authority of the State shall be vested in a legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls independently of the legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act of the legislature.
>
> (2) The first of these reserved powers is the initiative. Under this power 10 per cent of the qualified electors shall have the right to propose any measure, and 15 per cent shall have the right to propose any amendment to the constitution.
>
> (3) The second of these reserved powers is the referendum. Under this power the legislature, or 5 per cent of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State government and State institutions; but to allow opportunity for referendum petitions, no act passed by the legislature shall be operative for 90 days after the close of the session of the legislature enacting such measure, except such as require earlier operation to pre-

serve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the departments of State and of State institutions.

There is no doubt that some of the founders of this Nation distrusted the rule of the people. They intended that the people should vote for the members of an electoral college who should be free to choose the President. Only the form remains of this constitutional provision. Presidents are really elected by the majority of the popular vote. United States Senators were to be elected by the legislatures of the States. Senatorial primaries and advisory votes have largely repealed this provision, and it is soon to be abrogated, even in form, by an amendment to the Constitution for the election of Senators by the people of the respective States.

The initiative and referendum has been adopted by many of the Western States which have suffered through legislatures dominated and controlled by special interests. The Southern States have perhaps felt no need as yet for the initiative and referendum, because their legislatures are generally of one party and of one mind, and each man's interest more or less identical with that of his neighbor.

The people of the West take a lively interest in their political affairs and have been educated to the dire necessity of the duty of self-government. Their argument is that if a people can be trusted to elect members of a legislature which shall write their laws, they can be trusted equally to vote their approval or disapproval of the laws themselves. And while mistakes may be made by the people, the process is a highly educative one in the functions of self-government. The initiative and referendum was adopted by one State before its admission into the Union—Oklahoma. Neither the President nor Congress found the Oklahoma constitution repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And, whatever their views of it, they at least found it to be republican in form.

New Mexico, whose constitution has already been approved by the President, upon the advice of the Attorney General, adopted the referendum though not the initiative.

The point is that what might not suit either New York or Georgia does suit the educated and enlightened electorate of Arizona, as is manifest by a four-fifths vote of the delegates to the constitutional convention and a four-fifths vote of the people themselves in ratifying the constitution. The people of Arizona, and not the people of New York or of Georgia, are to live under the Arizona constitution. If the people of Arizona do not like it, in its present form, its amendment has been made easy, and neither New York nor Georgia have had the bitter experience of Arizona with a government far removed from the popular will.

The cession of 10,000,000 acres of land to the predecessor of the Santa Fe system and the taxation of the railroad which was sold to the Santa Fe at $175 a mile, is just one case in point. The story of corporate domination of Territorial executives and legislatures in the past years, "when poor rights were powerless and rich injustice strong," is too long to be told and need not be reviewed here.

But the initiative, the referendum, and the recall are closely connected parts of the same political theory. The people elect their representatives. If those representatives do not carry out the will of the people, then the people initiate legislation. If their representatives transgress the will of the people, then the people, through the referendum, repeal the laws which their representatives have made. This is no more or less than the recall applied to the laws, and if not unrepublican in form here can not be considered unrepublican when applied to the interpreters of the laws; but the people elect their judges, and if the judges whom they have elected, by judicial legislation, of which we have had many conspicuous instances in recent years, do violence to the will of the people, as expressed in their laws, then the people reserve the right to recall the interpreters as well as the makers or executives of law, and to substitute others in their places.

The question at issue is whether the initiative, the referendum, and the recall are consistent with a republican form of government; whether, taking from the legislature and delegating to municipalities or other localities affected, local self-government or a right to enact, maintain, and alter their charters, as the legislatures formerly did, and whether taking from the legislature the right to enact special laws are violations of the National Constitution, makes it important that we ascertain what is meant by a republican form of government. It is an expression which all assume to understand, yet, judging from many unsuccessful attempts of eminent statesmen and writers to give it a clear meaning, it would seem that the phrase is not susceptible of precise definition. Speaking of the constitutions of the different States this question has been well expressed.

In Kiernan *v.* The City of Portland (112 Pac. Rept., 402) the decision was:

> If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period or during good behavior. It is essential to such government that it be derived from the great body of society, not from any inconsiderable portion of a favored class of it. (The Federalist Hamilton Ed. paper 39, p. 301.) Another and more pointed definition appears in Chisholm *v.* Georgia (2 Dall., 419, 457; 1 L. Ed., 440) by Mr. Justice Wilson, a member of the Constitutional Convention, who but a short time after the adoption of the Federal Constitution, in adverting to what is meant by a republican form of government, remarked: "As a citizen I know the government of that State (Georgia) to be republican, and my short definition of such a government is one constructed on this principle, that the supreme power resides in the body of the people." That is to say, any government in which the supreme power resides with the people is republican in form. (See also Mr. Justice Wilson's remarks to the same effect, reported in 5 Elliott's Debates, 160.)
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> Measured in the light of the above it is difficult to conceive of any system of lawmaking coming nearer to the great body of the people of the entire State, or by those comprising the various municipalities, than that now coming into use here, and so we are at a loss to understand how the adoption and use of this system can be held a departure from a republican form of government. It was the effort to escape the oppression resulting from governments controlled by the select few, so often ruling under the assumption that "might makes right," that gave birth to republics. Monarchial rulers refuse to recognize their accountability to the people governed by them. In a republic the converse is the rule. The tenure of office may be for a short or a long period, or even for life, yet those in office are at all times answerable, either directly or indirectly, to the people, and in proportion to their responsibility to those for whom they may be the public agents, and the nearer the power to enact the laws and control public servants lies with the great body of the people, the more nearly does a government take unto itself the form of a republic—not in name alone, but in fact. From this it follows that each republic may differ in its political system or in the political machinery by which it moves, but so long as the ultimate control of its officials and affairs of state remain in its citizens, it will in the eye of all the republics be recognized as a government of that class. Of this we have many examples in Central and South America.
>
> It becomes, then, a matter of degree, not that we are drifting from the secure moorings of a republic, but that our state, by the direct system of legislation complained of, is becoming too democratic.
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> Thus, under any interpretation of which the term is capable, or from any view thus far expressed in the writings of the prominent statesmen who were members of the Constitutional Convention, or who figured in the early upbuilding of the Nation, it follows that the system here assailed brings us nearer to a state republican in form than was the case before the adoption of that system.

Mr. Thomas Jefferson, in 1816, when discussing the term "republic," defined and illustrated his view thereof as follows: "Indeed, it must be acknowledged that the term 'republic' is of very vague application in every language. Witness the self-styled Republics of Holland, Switzerland, Genoa, Venice, Poland. Were I to assign to this term a precise and definite idea, I would say, purely and simply, it means a government of its citizens in mass, acting directly and not personally, according to rules established by the majority, and that every other government is more or less republican in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens." (Writings of Thomas Jefferson, vol. 15, p. 19.)

It is well known that at the time of the adoption of the Federal Constitution there existed in some of the Atlantic States a system of local government, known as the New England town meeting, in which the people had the right to legislate upon various matters, the masses assembling at stated periods for that purpose, all of which was within the knowledge of those composing the constitutional convention. After observing that a true republic, under this definition, would necessarily be restrained to narrow limits, such as in a New England township, and that the next step in use at that time was through the representative system, Mr. Jefferson pointed out that the further the officials of State or Nation are separated from the masses proportionately less does such State or government retain the elements of a republic, and he concludes:

> On this view of the import of the term "republic," instead of saying, as has been said, that it may mean anything or nothing, we may say with truth and meaning that governments are more or less republican as they have more or less of the element of popular election and control in their composition; and believing, as I do, that the mass of citizens is the safest depository of their own rights, and especially that the evils flowing from the duperies of the people are less injurious than those from the egotism of their agents, I am a friend to that composition of government which has in it the most of this ingredient.

The observations quoted are in full accord with the recorded views of all the writers and statesmen of that time, when the intention of the framers of our National Constitution was fully understood, in the light of which it seems inconceivable that a State, merely because it may evolve a system by which its citizens become a branch in its legislative department, coordinate with their representatives in the legislatures, loses caste as a republic.

The extent to which a legislature of any State may enact laws is, and always has been, one of degree, depending upon

the limitations prescribed by its constitution, some constitutions having few and others many limitations. But in all States, whatever may be the restriction placed upon their representatives, the people, either by constitutional amendment or by convention called for that purpose, have had and have the power directly to legislate and to change all or any laws, so far as deemed proper, limited only by clear inhibitions of the National Constitution. Cooley, Const. Lim. (6th ed.), 44. See also Kadderly *v.* Portland, 44 Oregon, 118, 144–146; Oregon *v.* Pacific States Telegraph & Telephone Co., 53 Oregon, 162, 166; and 150 California, 71, 76–80, in re Pfahler, which I beg leave to insert in the RECORD:

(In re Pfahler, 150 Cal., 71, 76–80.)

The charter provision relative to the initiative, which is substantially similar to recently enacted provisions in the charters of other municipalities of the State, is vigorously attacked by counsel for petitioner and other attorneys appearing as amici curiæ, who claim to see in this curbing of the power of the ordinary legislative body of the city, this vesting in the electors of a municipality the power to enact measures which the legislative body refuses to approve, a violation of our own Constitution and a forbidden departure from the republican form of government guaranteed by the Constitution of the United States.

The latter objection may appropriately be first considered. Its sole foundation is section 4 of Article IV of the Constitution of the United States, which is as follows: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence." The contention here is, necessarily, that any attempt by a State to provide for a direct exercise of legislative power by the people, instead of by representatives of the people elected or appointed for that purpose, is, even in purely local affairs, inconsistent with the republican form of government guaranteed by this provision and ineffectual for any purpose, the theory being that such provision requires a purely representative form of government not only in the State itself, but also in all its subdivisions, leaving no vestige of power of direct legislation in the people themselves.

If we assume that this claim presents a judicial question rather than a political one to be determined by the Congress of the United States (see, however, Luther *v.* Borden, 7 How., 1; Taylor *v.* Beckham, 178 U. S., 548, 20 Sup. Ct., 1009), we are brought to a consideration of the question as to what was meant by this guaranty of a republican form of government. For all the purposes of this proceeding it is sufficient to hold, as we do, that it does not prohibit the direct exercise of legislative power by the people of a subdivision of a State in strictly local affairs. In saying this we do not wish to be understood as intimating that the people of a State may not reserve the supervisory control as to general State legislation afforded by the initiative and referendum without violating this provision of the Federal Constitution. That they may do so has been decided by the Supreme Court of Oregon in the case of Kadderly *v.* Portland, 44 Oreg., 118 (74 Pac., 710; 75 Pac., 222), which appears to be the only case in which that question has been directly presented. (See also Hopkins *v.* City of Duluth, 81 Minn., 189; 83 N. W., 536.) However this may be, it is clear that the direct participation of the electors of subdivisions of a State in legislation as to local affairs was never intended to be prohibited by the framers of the Federal Constitution, or the States adopting the same, and that such power has been exercised by them, where not inconsistent with provisions of their State constitution, in innumerable instances, from the institution of our Government to the present day, without interference of any kind on the part of the Federal Government.

As is universally recognized by courts and writers on constitutional law, it must be assumed that there was nothing in any of the forms of government prevailing in the various States at the time of the adoption of the Constitution that was violative of the provisions under discussion. Discussing this question, and speaking of the forms of government then existing in the various States, the Supreme Court of the United States said in Minor *v.* Happersett, 21 Wall., 162, 175, 176: "These governments the Constitution did not change. They were accepted precisely as they were, and it is therefore to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form within the meaning of that term as employed in the Constitution."

It is unnecessary to here do more than to refer to the widely known and well-recognized form of local government that prevailed in several of the States at the time of the adoption of the Constitution, known as the New England town government, under which all the inhabitants in town meeting directly exercised such legislative power as was essential to the conduct of local affairs. No difference material to the objection under discussion is to be found in the fact that they did this in public meeting, rather than by secret ballot at the polls, as under the provision before us. The objection here made is that, under the republican form of Government guaranteed by the Federal Constitution, such power can not be directly exercised by the people, and, so far as that objection is concerned, if the people may legislate directly in town meeting, they may do so by their votes at the polls. The constitutional provision was framed and adopted with the full knowledge of this system of local government that then obtained in four of the States, and that system was continued under the Constitution, without any question as to its validity. It is still to be found not only in several of the New England States but also in other States (see 1 Bryce's American Commonwealth, pp. 594, 601, 605; 1 Dillon on Municipal Corporations, sec. 258), and we are not aware that any suggestion has ever been made that this form of local government is prohibited by the Federal Constitution. Other instances practically without number of the direct exercise of legislative power by the people in the local affairs authorized by the State might be noted. As suggested in the briefs, the forms of local government in this country have been most varied, running all the way from the pure democracy of the town-meeting form of government up to such absolute control by the legislature of the State as deprived communities of any voice in their local affairs. It is apparent from this condition of affairs, existing continuously from the moment of the adoption of the Constitution, that if there is anything therein inconsistent with a republican form of government, within the meaning of these words as used in the Federal Constitution, the constitutional guarantee was intended to apply only to the form of government for the State at large and not at all to the local government prescribed by the State for its municipalities and other subdivisions.

Whatever may be said as to the former, the latter is undoubtedly true. It is clearly a question of local policy with each State what shall be its various political subdivisions for purposes of internal government, and what shall be the extent and character of the powers of those subdivisions and the manner of their exercise. The power of a State in such matters is absolute. (See Claiborne *v.* Brooks, 111 U. S., 400; 4 Sup. Ct., 489; Forsyth *v.* Hammond, 166 U. S., 506; 17 Sup. Ct., 665.) Where the authority of the electors of a municipality or other subdivision of a State to directly legislate in a matter of purely local concern is denied by a State court, it is denied solely upon the ground that the State constitution or statutes forbid the exercise of such power, as in Elliott *v.* Detroit (121 Mich., 611; 84 N. W., 820), and many cases cited by petitioner. (See Cooley on Constitutional Limitations, 7th ed., pp. 165, 166; Dillon on Municipal Corporations, sec. 44 and note.) The extent to which the people of a municipality shall be allowed to directly participate in the governmental function of legislating therefor in local or municipal affairs is therefore purely a question of State policy, in the determination of which the State is not restricted by any provision of the Federal Constitution. In thus speaking of the State, we mean not the legislature of the State or the executive or the judiciary, but the entire body of the people, who together form the body politic known as the "State." (Panhallow *v.* Doane's Admr., 3 Dall., 93; Fed. Cas. No. 10925; Brown *v.* State, 5 Colo., 499.)

In regard to the question now before us the Supreme Court of Oregon has spoken in no unmistakable terms in the following cases:

Kadderly *v.* Portland (44 Oreg., 118, 144–146):

Nor do we think the amendment void because in conflict with the Constitution of the United States (Art. IV, sec. 4), guaranteeing to every State a republican form of government. The purpose of this provision of the Constitution is to protect the people of the several States against aristocratic and monarchial invasions and against insurrections and domestic violence, and to prevent them from abolishing a republican form of government. (Cooley, Const. Lim., 7 ed., 45; 2 Story, Const., 5 ed., sec. 1815.) But it does not forbid them from amending or changing their constitution in any way they may see fit, so long as none of these results is accomplished. No particular style of government is designated in the Constitution as republican, nor is its exact form in any way prescribed. A republican form of government is a government administered by representatives chosen or appointed by the people or by their authority. Mr. Madison says it is "a government which derives all its powers directly or indirectly from the great body of the people and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior." (The Federalist, 302.) And in discussing the section of the Constitution of the United States now under consideration, he says: "But the authority extends no further than to a guaranty of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so and to claim the Federal guaranty for the latter. The only restriction imposed on them is that they shall not exchange republican for antirepublican constitutions." (The Federalist, 342.) Now, the initiative and referendum amendment does not abolish or destroy the republican form of government or substitute another in its place. The representative character of the government still remains. The people have simply reserved to themselves a larger share of legislative power, but they have not overthrown the republican form of government or substituted another in its place. The government is still divided into the legislative, executive, and judicial departments, the duties of which are discharged by representatives selected by the people.

Under this amendment, it is true, the people may exercise a legislative power, and may, in effect, veto or defeat bills passed and approved by the legislature and the governor; but the legislative and executive departments are not destroyed, nor are their powers or authority materially curtailed. Laws proposed and enacted by the people under the initiative clause of the amendment are subject to the same constitutional limitations as other statutes, and may be amended or repealed by the legislature at will.

And in the case of Oregon *v.* Pacific States Telegraph & Telephone Co. (53 Oreg., 162, 166):

Whether the initiative and referendum amendment to the constitution is invalid, because repugnant to the provisions of the Constitution of the United States, was thoroughly agreed to and considered by this court in Kadderly *v.* Portland, 44 Oreg., 118 (74 Pac., 710; 75 Pac., 222), and the views of the court as then and now entertained are indicated in the opinion filed in that case, and it is needless to restate them at this time.

Now, Mr. Chairman, having put these into my remarks, I desire to go to the one question of the recall of judges. In a number of States it has been held that the recall of all municipal officers could be exercised by the people in that municipality. That applies to the judicial officers in the municipality as well as the executive and legislative officers. No objection has been made to that. We have had the recall in municipalities in the State of California for a number of years. We find that our courts have held its provisions constitutional and not in contravention with the provisions of the Constitution of the United States, and that a form of government having that feature and the initiative and referendum was republican in form, and that that feature was merely another means and mode of giving the people an opportunity to be heard.

The people of Los Angeles a few years ago had an official who had proved recreant to his trust, and, instead of waiting two years, the people presented their petition for his recall. He realized that he had been wrong, that he had violated the principles upon which he had been elected, that he had been recreant to his trust, and he resigned about 10 days before the election came off, and my worthy friend and colleague in Congress from California was appointed by the people in his

place until a new election and the qualification of a new officer.

That is practically the only instance in California that we have had, and it has worked so well that the people of California, practically in mass, have determined that they are in favor of the initiative and referendum and recall. At the last legislature they submitted it to the people, only one man voting against the proposition.

I beg leave to insert in the RECORD the text of the California recall amendment:

SENATE CONSTITUTIONAL AMENDMENT 23.

A resolution to propose to the people of the State of California an amendment to the constitution of the State by adding a new article thereto, to be numbered Article XXIII, providing for the recall, by the electors, of public officials.

The Legislature of the State of California, at its regular session commencing on the 2d day of January, 1911 (two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof), hereby proposes that a new article be added to the constitution of the State of California, to be numbered Article XXIII, to read as follows:

ARTICLE XXIII.

SECTION 1. Every elective public officer of the State of California may be removed from office at any time by the electors entitled to vote for a successor of such incumbent through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and is in addition to any other method of removal provided by law.

The procedure hereunder to effect the removal of an incumbent of an elective public office shall be as follows: A petition signed by electors entitled to vote for a successor of the incumbent sought to be removed equal in number to at least 12 per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies (provided that if the officer sought to be removed is a State officer who is elected in any political subdivision of the State, said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be removed equal in number to at least 20 per cent of the entire vote cast at the last preceding election for all candidates for the office for which the incumbent sought to be removed occupies) demanding an election of a successor to the officer named in said petition, shall be addressed to the secretary of state and filed with the clerk or registrar of voters of the county or city and county in which the petition was circulated: *Provided*, That if the officer sought to be removed was elected in the State at large such petition shall be circulated in not less than five counties of the State and shall be signed in each of such counties by electors equal in number to not less than 1 per cent of the entire vote cast in each of said counties at said election as above estimated. Such petition shall contain a general statement of the grounds on which the removal is sought, which statement is intended solely for the information of the electors and the sufficiency of which shall not be open to review.

Such petition is certified, as is herein provided, to the secretary of state; he shall forthwith submit the said petition, together with a certificate of its sufficiency, to the governor, who shall thereupon order and fix a date for holding the election, not less than 60 days nor more than 80 days from the date of such certificate of the secretary of state. The governor shall make, or cause to be made, publication of notice for the holding of such election, and officers charged by law with duties concerning elections shall make all arrangements for such election, and the same shall be conducted, returned, and the result thereof declared in all respects as are other State elections. On the official ballot at such elections shall be printed, in not more than 200 words, the reasons set forth in the petition for demanding his recall. And in not more than 300 words there shall also be printed, if desired by him, the officer's justification of his course in office. Proceedings for the recall of any officer shall be deemed to be pending from the date of the filing with any county or city and county clerk or registrar of voters of all recall petitions against such officer; and if such officer shall resign at any time subsequent to the filing thereof, the recall election shall be held notwithstanding such resignation, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law, but the person appointed to fill such vacancy shall hold his office only until the person elected at the said recall election shall qualify.

Any person may be nominated for the office which is to be filled at any recall election by a petition signed by electors qualified to vote at such recall election, equal in number to at least 1 per cent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Each such nominating petition shall be filed with the secretary of state not less than 25 days before such recall election.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "yes" and "no" on separate lines, with a blank space at the right of each, in which the voter shall indicate by stamping a cross (×), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "no," said incumbent shall continue in said office. If a majority shall vote "yes," said incumbent shall thereupon be deemed removed from such office upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within 10 days after receiving the certificate of election the office shall be deemed vacant and shall be filled according to law.

Any recall petition shall be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county, in which it is circulated, and only qualified electors of such county, or city and county, shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his qualifications and all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is a genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition, so verified, shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proved upon official investigation, it shall be presumed that the petition represented contains the signatures of the requisite number of electors. Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all such sections circulated in any county or city and county shall be filed at the same time. Within 20 days after the date of filing such petition, the clerk or registrar of voters shall finally determine from the records of registration what number of qualified electors have signed the same; and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistance for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of said examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall submit said petition, except as to the signatures appended thereto, to the secretary of state and file a copy of said certificate in his office. Within 40 days from the transmission of the said petition and certificate by the clerk or registrar of voters to the secretary of state, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names may be filed with the clerk or registrar of voters as aforesaid. The clerk or registrar of voters shall, within 10 days after the filing of such supplemental petition, make the examination thereof as of the original petition, and upon the conclusion of such examination shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the secretary of state.

When the secretary of state shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State a certificate showing such fact, and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the State.

No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months, save and except it may be filed against any member of the State legislature at any time after five days from the convening and organizing of the legislature after his election.

If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the State treasury any amount legally expended by him as expenses of such election, and the legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

If the governor is sought to be removed under the provisions of this article, the duties herein imposed upon him shall be performed by the lieutenant governor; and if the secretary of state is sought to be removed, the duties herein imposed upon him shall be performed by the State controller; and the duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The recall shall also be exercised by the electors of each county, city and county, city and town of the State, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county (city or town), may provide for the manner of exercising such recall powers in such counties, cities and counties (,), cities and towns, but shall not require any such recall petition to be signed by electors more in number than 25 per cent of the entire vote cast at the last preceding election for all candidates for the office for which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities and counties or cities and counties having charters adopted under the authority given by the constitution.

In the submission to the electors of any petition proposed under this article all officers shall be guided by the general laws of the State, except as otherwise herein provided.

This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein reserved.

The State of Oregon at the general election held June 1, 1908, approved a constitutional amendment on the recall of all public officers in Oregon, which constitutional amendment took effect June 23, 1908; which constitutional amendment is as follows: (See Session Laws of Oregon, 1909, pp. 9–10; read in full.) In The State of Oregon *v.* The Pacific State Telephone & Telegraph Co. a masterly brief was prepared by George H. Shibley, Robert L. Owen, and J. Henry Carnes, on behalf of the State. The proposition disputed was whether the initiative and referendum were a republican form of government. This case has been appealed after a decision of the Oregon supreme court in

favor of the State of Oregon, and is now pending in the Supreme Court of the United States.

I wish to suggest to the gentleman from Massachusetts, to whom I have referred before, that he study the constitution of his own State on the subject of the power of recall, adopted in 1780. In article 7 of that constitution we find the following significant words:

Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people, and not for profit, honor, or private interest of any one man, family, or class of men; therefore the people alone have an incontestable, inalienable, and indefeasible right to institute government, and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

ARTICLE VIII.

In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places by their certain and regular elections and appointments.

The direct legislation idea is rapidly growing. Take the record of one year's legislatures and you will note, in addition to previous successes, that many new States have adopted the initiative, referendum, and recall in one form or another, sometimes in the adoption of the commission form of government for cities, including these three features of popular government.

What was done in New Jersey under the influence of Gov. Woodrow Wilson is set forth in a recent publication, as follows:

HOW WOODROW WILSON IS RESTORING GOVERNMENT TO THE PEOPLE OF NEW JERSEY.

He has secured the legislative enactment of an election-reform law, which requires—

Direct primaries for all officers, including governor and Congressmen.

The election of delegates to national conventions and of State committeemen at the party primaries.

An expression of choice for President and Vice President at the primaries.

That legislative candidates must say before the primaries whether or not they propose voting for the candidate for United States Senator indorsed at the primaries.

A Massachusetts ballot, with the names of all candidates grouped under the name of the office, instead of in party columns.

The selection of election officers by a civil-service system, instead of by the party bosses.

A State convention of party nominees to write the party platform.

He has secured the legislative enactment of a workmen's compensation law, which—

Wipes out the old defenses of fellow-servant's error, assumption, or trade risk, and contributory negligence.

Provides that when an employee is injured at work the employer shall be responsible, and shall compensate him for his injury and loss of time, regardless of what caused the accident or who was responsible for it.

He has secured the legislative enactment of a corrupt-practices act, which—

Makes it illegal for a candidate or politician to give a voter a cigar, to hire a carriage to take the voter to the polls, or to hire more than two men to canvass for votes in an election district.

He has secured the legislative enactment of a utilities bill, which—

Gives a State commission the powers over State corporations and utility service and rates exercised by the Interstate Commerce Commission over interstate utilities and rates, and authorizes the commission to make a valuation of the physical property of the corporations of the State as a basis for local taxation.

In defending the initiative, referendum, and recall I am defending the people of my own State. I stand on that platform to-day. After I began my race for Congressman the Republican convention adopted the following in its platform:

The submission to the people of constitutional amendments providing for direct legislation in the State and in the county and local governments, through the initiative, the referendum, and the recall.

A county-government act which shall provide an improved system of county government with the greatest possible measure of home rule compatible with necessary uniformity.

While the Democratic platform adopted as one of its planks the following:

We favor the initiative, referendum, and recall in State and local governments.

The Legislature of California at its session held in February, 1911, at Sacramento, proposed an amendment to the constitution of California to be voted upon by the people at an election in October, 1911.

Surely, no one would contend that the people of the great State of California have not stood true to the principles of the Constitution of the United States and have not upheld a republican form of government in the broad and true sense of the word "republican" as opposed to monarchial form of government; but God help the people to keep it from being as republican as it has been in the narrow, contracted way the word has been used when applied to party.

In the article on removal from office, article 8 of the Arizona constitution, which I also insert in the RECORD, it is provided that a petition of 25 per cent of the number of votes cast at the last preceding general election shall be necessary for a recall petition. The amendment upon which the California people are to vote in October provides for only a 12 per cent petition. It is admitted that Arizona can do what California can do after Arizona is admitted as a State. If the opponents of the Arizona constitution are really concerned about the fate of the Arizona judges, would it not be better to leave the constitution as it is rather than to allow Arizona to incorporate a recall provision at the earliest possible date providing for perhaps a 12 per cent or a 10 per cent recall petition rather than for a 25 per cent, as the constitution before us now provides?

President Taft took occasion recently to assail the recall of judges in his speech at the Waldorf Hotel in New York on May 13. He first seems to admit that there is something wrong with our judiciary system. He says:

The statistics which show the crimes that go unpunished in this country as compared with those in England are startling and humiliating to any son of America who has pride in his fellow countrymen as a law-abiding and law-enforcing people.

A study of the English system will show that their procedure and their guaranties in favor of the individual as to indictment, trial, and conviction, and their provision for the security of the liberty of the individual are exactly the same as ours, for we derive ours from them.

WHEN SYSTEMS DIFFER.

Our bills of rights, both in Federal and State constitutions, are simple copies of limitations found in the Magna Charta, the petition of right and the bill of rights, which are part of the British constitution.

Wherein is the great difference, then, between the effectiveness of the two systems? I believe it to exist in the character, experience, and learning of the judges, in the power which they maintain and exercise in the course of the trial for the saving of time and the simplification of the issues, and in the respect and obedience given to their intimations from the bench as to the proper behavior of counsel in the conduct of the case. If there is any other reason of the difference it can not be found in procedure.

But, in accordance with the habit of the judicial mind, he is inclined to lay the blame upon the whole people rather than upon the judges themselves. To quote from him again:

It must be found in the lighter regard for law and its enforcement on the part of our people as a whole and a consequent less rigorous public opinion in view of the punishment of crime, which relieves prosecuting officers and grand juries from the highest standard in this regard, and which finds its way into and exerts its influence in the jury panel during the trial and in the jury room during the consideration of the verdict.

What I believe to be an unfounded fear of judicial tyranny and an unreasonable distrust of judges have led to statutory limitations upon their power in the conduct of criminal trials which have made the trial by jury in this country, and especially in the Western States, an entirely different institution from what it was understood to be at the time of the adoption of our Constitution.

In many States judges are not permitted to comment upon the facts at all. They are not even allowed to charge the jury after the arguments of counsel, but they are required to submit written charges to the jury upon abstruse questions of law with no opportunity to apply the principles concretely to the facts of the case.

And now, not content with reducing the position of the judge to one something like that of the moderator in a religious assembly or the presiding officer of a political convention, the judge is to be made still less important and to be put still more on trial and to assume still more the character of a defendant by a provision of law under which, if his rulings and conduct in court do not suit a small percentage of the electors of his district, he may be compelled to submit the question of his continuance on the bench during the term for which he was elected to an election for recall, in which the reason for his recall is to be included in 200 words, and his defense thereto to be equally brief.

I do not believe that the American people are willing to accept the remedy which President Taft proposes of giving more power to the judge and removing him still farther from popular disapproval. Are not the judges elected from the members of the bar? Since when have lawyers been declared to be above temptation? Does the mere fact of being elected judge and placed in a position to pass upon the laws presented transform a human being into an immortal?

Against this address of the President in opposition to the recall of judges I suggest the examination of the following well-known and self-evident truths as published in the San Francisco Star. That paper predicts the overwhelming adoption of senate amendment No. 23 providing for the recall of all public officials, including judges, and says:

But, not to "confuse issues," we will in this article confine ourselves to the "recall" as pertaining to the judiciary, which some, even the best meaning, would exalt above God.

We will repeat much that we have already said, but only to impress upon the reader's mind the right of the voters to discharge any public servant who may prove himself unfaithful or incompetent.

What arrant nonsense it would be to give the people power to recall the mayor of the city, the governor of the State, or any and every other public official but a judge.

As we have repeatedly asked and may ask again:

What is a judge? Is he the king, who can do no wrong? Is he God, whose acts and motives one must not question? Is he our creator, or are we his? Are we his servants and he our master, or is he our servant and we his master?

Or, as the Johnstown Democrat expresses it:

"Just why judges should be considered sacrosanct, or why they should be set above the power creating them, is beyond our understanding."

They are of the earth earthy.

They have all the weaknesses of other human beings.

They are as easily swayed by passion, by interest, by consanguinity, by affinity, and by association as most of us undoubtedly are.

They are as vain, as ambitious, as subject to flattery, as open to insidious approaches as other mere mortals.

Their moral fiber differs in no essential character from that of the fraternity from which they are chosen.

They have the ordinary appetites, the ordinary attractions and repulsions, the ordinary habits, the ordinary prejudices of their kind.

This is the age of judge-made law. And so notorious has it become that in many States public opinion has taken alarm.

It is felt that all real power is being usurped by the courts, for legislatures are overruled, the will of the people set aside, their public servants hamstrung by judicial decree.

The suspicion prevails everywhere that in very large measure privilege dominates the courts and that corporation influences are paramount in determining vital questions affecting the liberty and property of the citizen.

* * * * * * *

Since the very first issue of the Star, more than a quarter of a century ago, and long before—since earliest manhood, in fact—we have advocated "equal rights for all, special privileges to none."

As we have hitherto stated, we have had judges right here in San Francisco who were known to sell their opinions and decisions like merchandise.

Although the Star exposed them, there was no way of getting rid of them save by impeachment proceedings before a legislature as corrupt as they.

We have had insane judges, too, on the superior bench. There was no way, not even by impeachment proceedings, to retire them.

Even if sent to an insane asylum, as one was, he could serve out his term of office.

The position of that particular judge was bought from his wife by his successor upon a written promise of the latter—which promise was broken—to pay her a certain sum per month.

Again we say:

The people can be relied upon to exercise the power of recall conservatively. They will never remove a judge for rendering a merely unpopular decision, nor for rendering any decision, unless the circumstances or other evidence show either corruption, willful favoritism, or gross incompetency. But they will remove corrupt, incompetent, habitually biased, persistently negligent and habitually intemperate judges.

The legislatures of all the States have proved that impeachment is no safeguard against the perversion of justice, and judicial scandals, notoriously resulting from having such judges on the bench.

There would be no more danger of a judge being recalled for a decision in any case not involving the constitutional rights or liberties of the people than there would be of the governor being recalled for signing or vetoing any bill in which those same rights were not involved.

None could have more respect for an upright judge than we; but we have seen too much and know too much of judges to be appalled by the fact that a man—sometimes not a man—is a judge!

In conclusion, we can not do better than quote these words from Judge James V. Coffey, who for more than 30 years has been an honor to the superior bench of San Francisco:

"If the people are competent to elect judges in the first instance, they certainly should be competent to reelect or recall, which are really equivalent terms."

That's the whole thing in a nutshell.

I myself have been a judge, and do not think it beneath the dignity of a former judge to confess that a judge is human and liable to err.

I beg leave also to insert in the RECORD the following editorial, which states the issue between the President and Arizona with remarkable accuracy:

ARIZONA RECALL.

The people of Arizona want statehood. They have organized for statehood, and now they are seeking approval of Congress and the President. There is a hitch in the proceedings. President Taft objects to one phase of the Arizona constitution, placing his opinion against the opinions of the men who constituted the convention and deliberated upon and decided what the organic law of their State should be.

The constitutional convention held in Arizona is worth considering in order to judge the quality of its results which are under the condemnation of President Taft. A former Boston man, a graduate of Harvard University, namely, M. G. Cunlif, was chairman of the committee on revision and compilation of the constitutional convention. With Mr. Cunlif on this committee there were four other gentlemen, holders of the degree of A. B. And these were not by any means the only so-called educated or otherwise respectable men involved in writing the document under discussion. Of the 52 delegates it is interesting to know that 50 of them were native Americans, that 1 was born in Canada and 1 in the Sandwich Islands. Both of these latter, however, were of English descent. Ninety-five per cent of the membership of the convention were taxpayers and property owners. Fifty per cent of the convention were wealthy business men. Twenty per cent of the convention were college men; another 20 per cent were school-teachers. Even one plain miner, who had worked 1,000 feet under ground, had been a school-teacher, but had left that profession as being too poorly paid. This bird's-eye view of the constitution makers of Arizona must at least tend to correct the impression that that instrument was put through by a crazy assemblage of Indians and cowboys to the accompaniment of the popping of corks and Colt revolvers.

The convention was a deliberative body in every sense of the word. The only thing in the constitution which has been seriously criticized is the recall, and it is only the recall of judges that has been objected to. President Taft hopes by one device or another that the constitution will be passed without this objectionable measure. His idea is that in the eager desire for statehood the people of Arizona allowed this "revolutionary" scheme to be railroaded through, and that if statehood is allowed without the recall, and the question is then submitted to the people for consideration they will more sadly and more wisely determine the matter. Theoretically the President is correct; but practically he is wrong. For anyone who is familiar with the making of the Arizona constitution knows that the recall for judges was included with a deliberate foreknowledge of the opposition which it would meet. Arizona, in other words, has known all along what she would be up against.

The reason why Arizona wants the recall is that she considers it to be the logical sequence of the initiative and the referendum. Looking at it one way, the recall is merely the referendum applied to men instead of to laws. The two are necessarily independent. If the people shall have the power to propose and to make laws, and shall have also the power to elect the judges who must interpret the laws, there remains only to give them the power to decide whether they are pleased with the opinions of their bench. The judicial recall, as Arizonians see it, merely means the opportunity to rectify possible mistakes in the selection of judges. Where the people can make, they ought to be able to unmake—such is the theory.

Apparently the President accepts the Arizona constitution entire with the single omission of the provision for the recall for judges. He has been quoted as saying that the people of Arizona should reconsider this section in the light of sober second thought and put it in later if found necessary, for the President seemingly can not believe that the Arizonians could have known what they did. Yet the testimony of visitors to the convention, as well as of members of the convention itself, is unanimously to the effect that the delegates did propose and finally reject the idea of not including the recall. "We want the recall," they argued. "We also want statehood. We realize that the recall is an impediment to statehood—that we can probably have statehood at once without the recall. We can, then, by the initiative and referendum—which we are allowed to keep—introduce the recall and all will be smooth going, but that is a dodge of a kind that we do not believe in. We stand for the square deal."

Those who are acquainted with the people of Arizona know that they believe in fair play, and they are only asking for fair play now at the hands of the representatives of the American people. It has been admitted over and over again that they could have left out the recall of judges, could have come into the Union with a mental reservation, and then could have adopted that provision in their constitution. It is merely an academic question, therefore, that we are discussing in dealing with the admission of Arizona. We are not asking that Arizona shall not adopt the principles of the recall. Some of us are simply trying to preserve our own reputation for consistency, because we have said somewhere that we do not believe in the recall. But we should be concerned with the single question whether the Arizona constitution is repugnant to the Constitution of the United States and the Declaration of Independence. A good deal has been said about the Constitution. Let me close this speech with some reference to the Declaration of Independence. It could hardly be charged that these principles of popular rule are repugnant to the principles of the Declaration of Independence. It is to secure certain unalienable rights, the Declaration declares, among them life, liberty, and the pursuit of happiness; that "Governments are instituted among men, deriving their just powers from the consent of the governed."

The declaration continues:

That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security.

All of which seems pertinent to the issue now presented to the representatives of the American people.

In denying self-government to Arizona are we not acting in a manner repugnant to the principles of the Declaration of Independence?

The Democratic national convention, in session in Denver, made the following declaration:

The national Democratic Party has for the last 16 years labored for the admission of Arizona and New Mexico as separate States of the Union, and recognizes that each possesses every qualification successfully to maintain separate State governments. We favor the immediate admission of these Territories as separate States.

The Republican national convention, in session at Chicago, also declared:

We favor the immediate admission of the Territories of New Mexico and Arizona as separate States of the Union.

Let it be remembered in the years to come as it has been remembered in Oklahoma that the opponents of the immediate admission of Arizona were not the representatives of the Democratic Party, but of the Republican Party. In the very report of this Committee on Territories the minority have recommended a resolution which will result in the delay of the admission of Arizona as a State until her people accept the humiliating condition of construing their own constitution, under which they have to live, in accordance with the will of Congress. Surely that is not in accordance with the Declaration of Independence, that—

All governments derive their just power from the consent of the governed.

While we are debating here our brethren of Anglo-Saxon breed are being governed by officials, not of their own election, but appointed by the President some thousands of miles away. Let us burst their bands asunder and give to them the inalienable right of a free people—the right of self-government.

And I sincerely predict that when we have passed this bill and required the people of Arizona to again take under advisement this part of its constitution it will overwhelmingly carry, including the initiative, the referendum, and the recall—not alone of legislative and executive officers, but of judges.

The State of Oregon has had this law in operation since 1898. It reads as follows:

CONSTITUTIONAL AMENDMENT.

Article 2 of the constitution of the State of Oregon shall be, and hereby is, amended by adding thereto at the end of said article a new section, which shall be numbered section 18 of said article 2, and shall be as follows:

"SEC. 18. Every public officer in Oregon is subject, as herein provided, to recall by the legal voters of the State or of the electoral district from which he is elected. There may be required 25 per cent, but not more, of the number of electors who voted in his district at the preceding election for justice of the supreme court to file their petition demanding his recall by the people. They shall set forth in said petition the reasons for said demand. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after the petition is filed, a special election shall be ordered to be held within 20 days in his said electoral district to determine whether the people will recall said officer. On the sample ballot at said election shall be printed in not more than 200 words the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said special election shall be officially declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed or another. The recall petition shall be filed with the officer with whom a petition for nomination to such office should be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated against any officer until he has actually held his office six months, save and except that it may be filed against a senator or representative in the legislative assembly at any time after five days from the beginning of the first session after his election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected unless such further petitioners shall first pay into the public treasury which has paid such special-election expenses the whole amount of its expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by the legislative assembly, including provision for payment by the public treasury of the reasonable special election campaign expenses of such officer. But the words "the legislative assembly shall provide," or any similar or equivalent words in this constitution or any amendment thereto, shall not be construed to grant to the legislative assembly any exclusive power of law-making, nor in any way to limit the initiative and referendum powers reserved by the people.

Under this provision there has never as yet been the necessity for the application of the recall in the State of Oregon, but it has made the judges more careful and conscientious. It has made them realize that they are closer to the people, as they ought to be. And while I have listened here for a week to gentlemen on the other side of this aisle and to gentlemen on this side of the aisle, I have not yet heard any statement why a judge should not be recalled. There has been given no argument, no reason, and no statement why a judge should be thus set apart. If there is any such reason, I would like to have them give it; because if the argument that a judge would decide differently, would conduct himself differently by virtue of the recall than he would without it, it must then be admitted when we elect our judges, as in most of the States they are elected, that three or four years of their term they will decide what they think is the law and then the last year or six months before election they will decide what they think the people want. Has anybody intimated such a thing? Has such a proposition been contended for? Certainly not. But the people say they have a right to recall all their officers, irrespective of what the office may be. It puts them on the same basis.

The argument has been presented here, and will continue to be presented, that to recall an officer condemns him, ruins him before the public and the world. The condemnation is only in proportion to the offense. I want to say now that possibly every State in the Union has provision for the recall of officers. We have impeachment, which must be had because of some violation of the law, which ruins a man forever, deprives him thereafter of any public or political rights.

The man who is convicted of an offense can be removed from office, but he is forever ruined. He is deprived of his rights as a citizen. So far as all the county officers are concerned, in the State of California, one man may appear before any court in the State, file his application for the removal of any officer, except a superior judge; he may file an application for the removal of a justice of the peace or a police-court magistrate, and if he maintains his complaint, the officer is removed. Only it puts a stain of criminality upon him.

It is provided by law, not only in our State but in others, that a petition or accusation may be presented to the grand jury to remove any county officer because of dereliction of duty, malfeasance, or nonfeasance in office or omission to do his duty, and if an indictment or information is presented by the grand jury, the man is tried, and he not only loses his office but he is prohibited from holding other offices in the gift of the people. Those provisions have been used, and the people say now that they should be applied to the judges and to the State officers as well; that when a public servant is directly responsible to those who elect him he is going to give better service. It is not only on a legal decision that the matter is involved. There are many other matters that come before a judge, and his proper application of the law means a good community or a bad one. Some judges do not believe in enforcing the laws that the people have enacted, thus placing the opinion of one against that of many.

For instance, some judges say that the juvenile-court law is not right, and they will not enforce it. Others say it is right, and they do enforce it. They go out into the highways and byways and bring in the struggling boys and girls who have perhaps lost their footing on the ladder of life, and by taking hold and lending a helping hand they try to make and do make worthy men and women of them. They have control of them in such shape that we are building up a citizenship in this country of which we may well feel proud. You can talk about the man on the bench or any other officer. He will have just as high an ideal as the ideals of the community in which he lives. When the officers are elected by a high-class citizenship, well educated, understanding the principles of good government, they will give the people that kind of an administration. In a community, be it small or be it large, with a citizenship of low ideals, caring little for the enforcement of the law, the officers elected by such a constituency will have the same low ideals and will carry out the laws in the same slipshod way. But, thank Heaven, there are but few of those in existence.

I have an abiding faith in the will of the people and in their good judgment, and in their actions they have shown a determination to do what is right and to vote for what is right.

Now, I shall vote for the substitute resolution. I had hoped that I would have a chance to vote to make them both States, but I understand I can not, and therefore I think the committee has done wisely and well to return the two constitutions to the States providing that they may again vote—one upon the question of amending the constitution and the other upon the question of whether or not it will recall its judges; and whichever way they vote, either for or against, if this resolution passes the House and the Senate and the President signs it, in three months these Territories will be States in the Union. [Applause.]

National Aid for the Improvement of Our Public Highways.

SPEECH

OF

HON. DICK T. MORGAN,

OF OKLAHOMA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, August 22, 1911.

Mr. MORGAN said:

Mr. SPEAKER: In the few words I shall speak at this time, I desire to impress upon the Members of the House the very great importance of improvement in the public highways of our country and urge national aid in support of this great undertaking.

The indifference of our people on this subject is astounding. Other matters, of far less importance, have the attention of both Congress and the people. The need of better public highways is not adequately recognized. Fully three-fourths of my constituents are farmers. They are directly interested in good roads. The people residing in the towns and cities are also vitally interested in good roads. Every mail brings me letters urging me to give my support to propositions pending in Congress. But few write concerning national aid for the improvement of our public highways. Why this indifference concerning such an important matter? Evidently there is much work to be done. Public sentiment must be aroused. Congress seldom acts in advance of public opinion. Usually the national legislative body simply records what public sentiment decrees. The people finally secure what they want. The people can have national aid for the betterment of public highways when they demand it. Many projects are demanding recognition from Congress. We are spending annually millions of dollars on propositions that are less worthy than improvement in our public highways. Liberal, if not lavish, appropriations are made for projects that will not confer the substantial benefits which the same amount of money would bring to the public if expended in the cause of good roads.

No one seriously questions the constitutional power of Congress to appropriate money for building and improving post roads. No one will deny the vast benefits that will come from improvement in our highways. No one will say that these benefits will not be distributed to all sections of our country and to all classes of people. No one will say the National Government is financially unable to render assistance in good-road building. Congress, then, has the power, the National Government is able, the benefits will be substantial and equally distributed to all classes of our citizens—North and South, East and West.

The time for action has arrived. National aid for the improvement of our public highways should be our battle cry. Farmers, merchants, mechanics, men in every calling and avocation of life should unite in pushing good roads to the front. National aid for improvement in our public roads does not contemplate less work or the expenditure of less money by State and local authorities. Federal aid is merely to supplement the work to be done by the States.

The National Government is to aid, encourage, and assist the States in this great work. Every dollar expended by the National Government in this cause will result in the expenditure of many additional dollars by the State and local authorities. National aid for improvement in our highways will be seed sown in good ground that will bring forth a hundredfold.

The National Government has not been idle. The Good Roads Bureau under the Department of Agriculture has contributed much to the cause of good roads. Through this bureau much valuable information has been furnished the people. The people have been taught the importance of good roads. Attention has been called to the great annual loss suffered by reason of bad roads. The bureau has demonstrated the immense savings that would come from improvement in our highways. The public understands, as never before, how good roads will improve the moral, religious, educational, and social conditions in the country districts.

In this great work of agitation, education, and organization good-roads societies have contributed largely. The National Good Roads Association is an organization that has been a great factor in the good-roads movement. That organization is at work to-day. Under the direction of this organization the Fourth International Good Roads Congress and Exposition will be held at Chicago September 18 to October 1, 1911. I understand President Taft will address this congress. Good-roads advocates will participate in the proceedings. Experts will take part in the program. There will be delegates from every section of the country. Prominent Federal and State officials will be there to aid the great cause the congress represents. Meetings of this kind deserve our encouragement. Such conventions are important factors in disseminating correct information as to the importance of good roads and as to the best methods for their construction. Such conventions also serve to mold public opinion in favor of national aid for the improvement of our public highways.

On the 18th of August, 1909, the National Good Roads Association held its annual convention at Oklahoma City, Okla., within my congressional district. One of the principal speakers before that convention was B. F. Yoakum, chairman of the executive committee of the Rock Island Railway Co. Mr. Yoakum's address was an appeal to the farmers of the country for a higher appreciation of the importance of good roads, especially as a factor in reducing the cost of the transportation of farm products from the fields to the consumer. Mr. Yoakum said:

"Farming is rapidly becoming more of a science. To insure a fair return upon the constantly appreciating value of land, the amount of crops per acre must be increased and the cost of hauling to railroad station reduced. After the farmer has solved the question of soil and treatment and methods of cultivation, there still remains the movement of the crop over the wagon roads to the railroad station. This expense the farmer must bear, and it enters into his cost of production just as much as cultivation, harvesting, or ginning, and is a branch of expense on which a greater saving can be made than in any other way.

"We have numberless instances where the construction of a railroad has advanced the value of land from $10 to $50 per acre. We also have many instances where the improvement of the public roads has increased farm values from $10 to $50 per acre. Therefore, saying nothing about the relative comforts of a good road over a bad one, good roads are a splendid investment for the farmer. As the farmer uses both the railroads and the wagon roads more than any other class of citizens, he is entitled to have them both in proper condition to handle his business as cheaply and promptly as possible."

Mr. A. A. Allen, president of the Missouri, Kansas & Texas Railway Co., in a recent letter to Mr. Arthur C. Jackson, president of the National Good Roads Association, said some valuable things on the importance to the farmer in the improvement of our public highways.

I ask that this letter be printed as a part of my remarks. The letter is as follows:

MISSOURI, KANSAS & TEXAS RAILWAY CO.,
OFFICE OF THE PRESIDENT AND GENERAL MANAGER,
St. Louis, Mo., May 23, 1911.

ARTHUR C. JACKSON, Esq.,
President, Fourth National Good Roads Congress,
Birmingham, Ala.

DEAR SIR: I very much regret my inability, on account of other engagements, to attend your congress, but assure you that the Missouri, Kansas & Texas Railway Co. is greatly interested in the good-roads movement, and hopes to cooperate with the National Good Roads Association in the future as in the past, realizing that the present condition of the public highways retards the development of the country and involves our road in an annual loss of hundreds of thousands of dollars.

A railroad is strictly a business enterprise, engaged in transportation of people and commodities, and, as by far the greater part of its revenue is derived from the handling of freight, it is obvious that whatever hinders the free and regular movement of the product of the farm or factory restricts the income.

The elimination of grades, the providing of proper drainage, ballast, and steel rails make it possible to haul great loads at a minimum cost. Many millions of dollars are annually expended by railroads in betterments, that a greater volume of business may be handled at less expense. A like expenditure upon the public highways by the State or Nation would produce vastly greater results for the reason that it now costs the farmer from 30 to 40 times as much per ton mile to move his product to the railway station than it costs the railroad to move it from such station to destination. Freight rates, as a rule, are now so low that any considerable reduction would bankrupt every railroad and thereby impoverish the farmer, yet it is easily possible to cut the cost of highway transportation in half by the construction and maintenance of good roads.

To this end the producer, consumer, and the transportation companies join hands and demand permanent highway construction by the State and Nation, that the cost may be borne by all the people without burden to any.

Very truly, yours,

A. A. ALLEN,
President and General Manager.

While I shall remain a Member of Congress I shall stand ready to aid the good-roads movement in every way in my power. I shall talk for good roads, work for good roads, and vote for good roads. I believe the National Government should aid in this work, and I am ready to vote for any reasonable appropriation for that purpose.

The Intracoastal Waterway.

SPEECH

OF

HON. JOHN H. SMALL,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, August 22, 1911.

Mr. SMALL said:

Mr. SPEAKER: By the courtesy of the House I desire to submit briefly a few observations upon the subject of waterways and transportation. There are a few basic propositions which must be constantly kept in mind. Commerce is dependent upon the distribution of products, and the better the methods of distribution which prevail the greater encouragement and facilities will be offered for the growth of commerce. The principal factors in distribution are speed, low rates, and economy in handling the products between the instrumentalities of transportation.

We must understand that transportation by water is merely complementary to other methods of transportation. In itself it is just as important as transportation by rail and transportation by highways. Blessed are the people who have natural waterways, which either in their natural condition or by improvement are capable of being utilized by water carriers, and wherever conditions so justify the people who build artificial waterways, such as canals, give unquestioned evidence of their progressive spirit and of their intention to solve rightly the problem of transportation. So that we must learn to appreciate the fact that waterways are a necessary adjunct of commerce and that they must be improved and utilized.

But the mere improvement of natural waterways and the construction of artificial waterways are not alone sufficient. They must be utilized. One of the necessary incidents in the effective and economic use of waterways is the construction of proper terminals. No wise manager of a railroad would think of undertaking the building up or taking care of the traffic upon his railroad without providing adequate terminals. Each station must have its side tracks, and at every point where large traffic exists there must be a large area with its network of tracks and with the other facilities of a modern rail-

way terminal. With waterways terminals are equally important. Wherever there is a feeder for the water carrier a proper terminal must be constructed, and the greater the traffic the more complete and capacious must be the water terminal. The main purpose in view must be the transfer of freight between the water carrier and the warehouse, or between the water carrier and the railroad car, with the utmost dispatch and the greatest economy. A waterway is essentially incomplete without these water terminals.

Who shall provide these water terminals along the waterway? Waterways differ from railroads in that they belong to the public. They are absolutely free to whoever may wish to use them, subject only to such conditions as shall not unnecessarily impair their navigable character. Under our system of government and other conditions, it is not probable that the United States will undertake to construct such water terminals. This duty must devolve upon the States, or preferably upon municipalities, acting under the authority of the States. Such terminals should be open to the use of all water carriers, and the conditions of use should be liberal and at such cost only as will suffice to pay the interest upon the cost of construction and the cost of maintenance. The time will come, and for one I believe in hastening the day, when appropriations by Congress for the improvement of waterways shall be conditioned upon a satisfactory guarantee that proper terminals will be provided by the municipalities and other public agencies along the line of the waterway.

I have not stated all the adjuncts which belong to terminals. It is not alone necessary to have modern terminals for the rapid and economic transfer of freight between the wharves and the water carriers. It must be again recalled that water transportation is only complementary to transportation by rail and by highways. There should be physical connection between the nearest line of railway and the water terminal or warehouse. Their tracks should be laid to connect with this terminal, and every facility should be afforded for the transfer of freight between the warehouse and railroads, or directly between the water carrier and the railroad, and the transfer should also be made by the most efficient methods. If the railroads in recognition of their public duty and the interests of the public should not voluntarily extend their tracks to the water terminals, then they should be compelled to do so by adequate legislation. It is well to state just here that this cooperation between the railroads and water carriers will not only serve the best interests of the public, but will also promote and augment the revenues of the railroads.

There is also a necessary connection between the public highways and the water terminals. The best highways suitable for heavy traffic should be constructed to the terminals, and every facility should be offered for the economic transfer of traffic between the warehouse and the wagon upon the highways. With these water terminals provided and the complete recognition upon the part of the public of the proposition that waterways, railroads, and highways are but a part and parcel of a complete system of transportation will be solved this vital problem of transportation, and solved in such a way as to promote commerce and the interest of the three complementary methods of transportation.

How shall this condition, so devoutly to be wished, be consummated? It is a truism that a people have such a form of government and such officials as they deserve. If they wish a republic, they will have one. If they wish to increase the power of the people toward a more complete popular government, they will do so. If they set high the standard of efficiency and integrity in public office, they will have officers who meet this standard. Likewise if the people demand that the Federal Government shall discharge its function in the improvement of waterways and harbors and adopt a comprehensive continuous system of improvement and maintenance, then Congress will respond to that demand. If our policy in the improvement of waterways has been uncertain, lacking in continuity of purpose and with sporadic appropriations, it has been due to the absence of a proper appreciation of the subject and of the fixing of a standard by the American people. If river and harbor appropriation bills in the past have been truly subject to criticism, in that insignificant streams have been improved and logrolling methods applied in the making of appropriations, it has been because the American people permitted this condition to exist.

We shall not have an ideal national policy in the improvement of waterways until the American people shall be appropriately educated upon this subject and a wise public opinion shall enforce its mandate upon the Congress. Much has been done in this line of education. For about a decade a propaganda has been waged the effect of which is easily discernible. The National Rivers and Harbors Congress has made a large contribution in the way of inculcating a wise policy. Various associations throughout the country have been organized to promote specific projects, and at the same time they have directed the attention of the public to the necessity and wisdom of improved waterways. The people are gradually learning that the problem is not sectional, but national, and that the people of the interior, even when distant from waterways, receive an indirect advantage, affording ample compensation.

Not the least among these voluntary associations is The Atlantic Deeper Waterways Association. Its purpose is to promote the construction of a continuous protected inside passage along the Atlantic seaboard from Boston to Florida. Time does not permit, even if it were necessary, to dwell upon the importance of this project. No intelligent citizen who brings to the subject an unbiased mind has been found who would discredit this great project. On the contrary, it has grown in public estimation until it is now recognized as one of the essential national projects which must of necessity be a part of any comprehensive system of waterway improvement. This association had its inception in the city of Philadelphia in 1907, where a compact and militant organization was effected. Annual meetings have since been held in the cities of Baltimore, Norfolk, and Providence, which were attended by delegates from every State along the Atlantic seaboard. The next meeting will convene in the city of Richmond, Va., and be in session from October 17 to 20, inclusive. The Richmond meeting will mark a distinct epoch in the progress of the intracoastal waterway. The citizens of Richmond and of the Old Dominion are keenly advertent to its importance and are joining hands with the other seaboard States in pressing this project upon the attention of the country. No important and progressive community can afford to neglect the opportunity of representation at this annual gathering. From New England, from the Middle Atlantic States, and from the South the most popular slogan will be "On to Richmond."

Conference Report on H. R. 2958, Publicity of Campaign Contributions.

SPEECH

OF

HON. THOMAS U. SISSON,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, August 17, 1911,

On the conference report on the bill (H. R. 2958) to amend an act entitled "An act providing for publicity of contributions made for the purpose of influencing elections in which Representatives in Congress are elected."

Mr. SISSON said:

Mr. SPEAKER: Not having been able to get time from those having charge of the conference report on the campaign publicity bill, I take advantage of the privilege granted me of extending my remarks in the RECORD in order that I may state my reasons for not supporting this bill.

In the first place, I am unwilling at any time to transfer from the States to the Federal Government any power not granted to the Federal Government in the Constitution over elections. That power which prescribes the qualifications of electors and the manner of holding elections is the power which, in the last analysis, will finally control all legislation. If Congress ever takes charge of the elections for Congressmen and Senators in the various States, then every vestige of State sovereignty will be destroyed by Federal legislation. The only wise course of the people of the respective States to pursue is never to allow any man to come to Congress who is willing to vote for any bill that will take away from the people of his district the absolute right to choose whom they will and in the manner they may prescribe.

The proponents of this bill in the House felt that they had gone to the full limit when they required candidates for Congress to publish campaign expenses in the general election, and when the motion was offered by a Republican from Kansas to include primary elections in this bill it was with almost absolute unanimity voted down by the Democrats in this House. It was then contended, and I think correctly contended, that the Federal Government had no right, under the Constitution, to in any way regulate primary elections or prescribe what candidates in the primary election must or must not do.

Primary elections are of modern growth, and have been purely State origin. It is now universally admitted by everyone who has given study to this question that each State has an absolute right to exercise its police powers as it may see fit and proper, provided in exercising this power it does not in any way violate the Federal Constitution. The right of the States to pass a primary election law at all is found in the doctrine that each State in the exercise of its police power can make laws to regulate party primaries. If this bill becomes a law, and it unquestionably will, then it is a concession to the Federal Government of the right, that it does not now have, of interfering with the police power of the States. This bill transfers from the courts of the States to the Federal Courts the right to censor in the primary election, which is a pure State institution, the primary campaign expenses of the candidate for Congress, and vests the Federal courts with the power to punish by fine and imprisonment a violation of this publicity bill. It puts in the hands of the Federal courts a power that it does not now have of trying men who offer themselves as candidates for primary nomination. That is to say, when a man is asking for a party nomination, he is simply endeavoring to get his party to name him as the man who shall become the party's candidate in the general election, and unless he receives his party's indorsement he, by asking a party nomination, is specifically stating that he will abide by the action of the primary nomination and will not become a candidate for Congress. Then how, under any circumstances, could a Federal Government obtain jurisdiction of these candidates who are defeated for nomination? Yet under the terms of this bill the power of the Federal Government is extended over such persons, and if he fails to comply with this law can be punished in the Federal courts, even though defeated for the nomination, and is not a candidate for Congress and never becomes one. Such an extension of Federal power is highly dangerous and can not receive my support.

Even if I thought that the constitutional provision was broad enough to extend the power by an act of Congress over the State primaries, I do not think that Congress ought ever to exercise such power. But since I think the bill in its present form is unconstitutional, I could not, under my oath of office, support it, even if I thought it a wise provision. The oath which a Congressman takes is as follows:

> I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The protection in this oath is such that no Congressman, unless he is willing to commit a perjury, can support a bill that he does not believe to be constitutional. The oath is very searching, and every man must positively swear that he will support the Constitution without any mental reservation or purpose of evasion and that the obligation is freely taken.

This oath was intended for the protection of the American people, and however great the clamor may be for congressional action on any matter no self-respecting Member of Congress could listen to that clamor, unless the people were clamoring for something that the Constitution authorizes. Every State is interested in the observance of this oath, and upon the sacredness in which it is kept depends the liberty of every citizen within the borders of our great Republic.

It is not enough for a Congressman to say that if a bill is unconstitutional that the Supreme Court will declare it so. No citizen should be compelled to go into the courts and bear the burden of an expensive court trial in order to have preserved his constitutional liberty. Now, should any State be compelled, within the forum of the Federal judiciary, to contend for its rights, because if Congressmen would keep their oaths of office this would not be necessary.

If we expect Congressmen and Senators to observe sacredly this oath, so that the rights of the States and the liberty of its people shall be preserved without the necessity of resorting to the courts, they must place the strictest construction on the Federal Constitution as the surest safeguard of their liberty.

I can not give my support to this bill. I myself am devoted to the principles of government as announced by Thomas Jefferson, and I believe that the preservation of our sacred institution largely depends upon adopting his views of the Federal Constitution. It was abhorrent to Mr. Jefferson's great mind and heart to ever contemplate a situation where Congressmen and Senators would so far forget their oaths of office as to support a measure which they believed to be unconstitutional, or about whose constitutionality they had doubt, with the flimsy excuse that if there was anything unconstitutional in the measure that the Federal courts would so declare.

I am also opposed to this bill for the reason that under its terms the Federal grand juries could summon witnesses and inquire into a man's most private affairs under the guise of endeavoring to ascertain whether or not he had expended more money than the Federal statute authorized in the primary and general election combined. I am sure that no Representative who has ever experienced Federal control of elections, as we have in Mississippi, would ever tolerate for one moment the passage of such a bill as this. When we had in Mississippi Federal control of elections our State capitol was a saturnalia of crime; our people were robbed by unjust taxes, were disfranchised by unjust laws, and foreigners, who had no interest in the honor and welfare of our State, were appointed election officers, held the elections, and determined who should and who should not vote. I can not, without a shudder, think of my people in Mississippi ever again being subjected to all the horror of Federal control of elections. I fear that this is but a step in the direction of Federal control, and for my own part I will never take this step.

The people of Mississippi can trust themselves. So can the people of other States. Our Republic is absolutely safe just so long as the people of the various States have absolute control over their elections. Our Republic is destroyed the very moment they lose that control. The people of the States have already passed rigid laws to control campaign expenses, in fact, nearly all of the States have within the last few years been aroused over corruption in elections, and if we will wait only a short time this revolution will be wrought in the States, and will be a great deal more effective when the law comes from the people of the States than when forced upon them by the Federal Government.

I have no earthly objection to the widest publicity of campaign expenses. In every election in which I have been a candidate I have never spent a single dollar unlawfully, nor have I ever offered directly or indirectly, to buy a single vote, nor have I ever directly or indirectly subsidized a single newspaper. No man on this floor is more heartily in favor of pure elections than I am. There is nothing so revolting as the expenditures of vast sums of money by the vast corporate interests of this country, for the purpose of corrupting the electorate, in order that they may fill the House of Representatives and the Senate with men whom they can use after they are elected. But since elections should be always under the control of the people of the States, I want the people of the States to pass the most drastic State laws to prevent this corruption. When the people do this in the States corruption will end.

I think this law will prove a farce and a failure, and when it does it will then be up to Congress to pass more stringent laws. In order that the will of Congress shall be obeyed it will be necessary that they control election machinery. It is this that I fear from this bill more than the immediate results of the bill. Entertaining therefore these views and submitting to the judgment of my people my vote, I shall cast it against the pending measure. My vote will not be able to prevent the impending blow to States rights, and since it must fall, it must fall over my protest. If the rights of the people of the States are to be thus infringed and trampled upon it must be without my vote and without my consent.

The Workings of Indefensible Schedule K.

SPEECH

OF

HON. JOHN E. RAKER,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, August 18, 1911.

The House having under consideration the veto message of the President on the bill (H. R. 11019) to reduce the duties on wool and manufactures of wool—

Mr. RAKER said:

Mr. SPEAKER: Personally I am in favor of the bill and shall vote against the President's veto at this time. The matter I have to present comes from the woolgrowers of California, an article prepared by Mr. Ellenwood, of Red Bluff, and presented to the California Woolgrowers' Association at Red Bluff, Cal., on December 22, 1910. When the National Woolgrowers' Association met at Portland, Oreg., on January 4 to 7, 1911, the opposition of the manufacturers engaged in the woolen industry were so strong that they prevented this man Ellenwood, who is the secretary of the California Woolgrowers' Association, of Red Bluff,

Cal., from even reading his paper to show the iniquitous workings of the Payne-Aldrich Schedule K. The presentation of the workings of the present wool schedule is clear and shows that the western woolgrower is not getting what he thinks he is. The schedule should be revised, and that revision should be downward. The present bill does that, and therefore I consider it my bounden duty to support the bill and vote against the veto. A man's compaign promises should be kept and carried out whenever that opportunity presents itself. The pledge I gave to my people last fall was that I was in favor of "an honest revision of the tariff downward." This bill is along those lines. There may be some imperfections in it, though it is in the right direction—downward—as well as doing away with the many glaring injustices in the present Payne-Aldrich bill.

Mr. Ellenwood has so clearly and fully set forth these matters that I shall insert his article in full:

THE WORKINGS OF SCHEDULE K AS IT RELATES TO THE WOOLGROWER, MANUFACTURER, THE GOVERNMENT, AND CONSUMER.

[By Fred A. Ellenwood, Red Bluff, Cal.]

This paper concerning the workings of Schedule K of the Payne-Aldrich bill was presented to the California Woolgrowers' Association, in session at Red Bluff, Cal., December 22, 1910, and was carefully analyzed by that body, which requested that Mr. Ellenwood present it to the officers of the National Woolgrowers' Association, in session at Portland, Oreg., January 4 to 7, 1911.

Before we try to solve any problem, however simple or complex, we must first understand the conditions, which in this case are plain to everyone producing wool. Going back a few years we find we had a free trade. Now, I believe, we are united on this point that we do not want to see the return of those days. Since that time our present tariff system has not materially changed, and within the last few years every article we buy has advanced in price; labor has increased about 50 per cent in price, but decreased in efficiency; everything pertaining to our equipments costs much more; we are now compelled to pay for all the feed we get, whether it be corn in the winter on top of a snowdrift or bunch grass in the summer amidst a thicket of manzanita or snow brush, while the one article, wool, which we have tried to protect and upon which we depend for a living has not advanced in the past few years, but, on the contrary, has decreased in price, and were it not for the present price of mutton and the hope of a better wool market many sheepmen would have given up in despair long ago.

While our wool market is weak, the foreign market continues strong, which is only a natural result when we stop to consider the fact that in 1909 our importations of unmanufactured or raw wool have increased to such an extent that we have a surplus on hand to-day and a dull market for our home wool. Then, I ask, why do the manufacturers and importers prefer foreign wool with duty added to the exclusion of our own? As an indirect answer I wish to quote Congressman Cushman, when he said:

"I admire a protectionist; I respect a free trader, for he at least is consistent; but for the man who wants high protection on the goods he produces, free trade on the articles he consumes, I have neither respect nor admiration."

As a direct answer, I say it is up to us to see who is responsible for this present state of affairs by investigating this Schedule K of our present tariff law; translate it into English and mathematics, so that the woolgrower and consumer will understand it as well as manufacturer and importer.

By reading the bill we find that all wool is divided into three classes: Class 1 being wool of merino blood, immediate or remote, down clothing wools, and wools of like character with any of the preceding; China lamb's wool, etc., while class 2 includes the Leicester, Cotswold, Lincolnshire, down combing wools, Canada long wools, or other like combing wools of English blood, hair of the camel, angora goat, and other like animals; class 3 being native South American, Cordova, Valparaiso, native Smyrna, and Russian camel's hair.

Paragraph 362 is as follows:

"The duty on wools of the first class which shall be imported washed shall be twice the amount of the duty to which they would be subjected if imported unwashed; and the duty on wools of the first and second classes which shall be imported scoured shall be three times the duty to which they would be subjected if imported unwashed. The duty on wools of the third class, if imported in condition for use in carding or spinning into yarns, or which shall not contain more than 8 per cent of dirt or other foreign substance, shall be three times the duty to which they would otherwise be subjected."

Please notice that the duty on wool of class 1, if imported washed, shall be twice the duty if imported unwashed. First, I wish to say that this proportion is not correct, as wool washed on the sheep's back does not lose 50 per cent, as indicated by doubling the duty, but usually loses from 25 to 33 per cent, and class 1 wool seldom, if ever, enters our port in any other condition except in the grease, while practically all of class 2 wool coming from Canada enters the United States in a washed condition, but when the duty on washed wool was being doubled in the tariff law class 2 was not included in the reading, so all this wool, averaging about 16,000,000 pounds a year, enters our port at the same duty washed as if it were in the grease, and Canada woolgrowers are not complaining.

In defense of this practice I wish to quote the president and officers of the National Association of Wool Manufacturers in a statement submitted to the Committee on Ways and Means, dated February 10, 1909.

ENGLISH AND CANADA WOOLS.

"Combing wool from England and Canada, a long, rather coarse and distinctly lustrous fiber, is, and long has been, imported washed, subject to a single duty as wool of class 2. It has been the practice of English and Scotch woolgrowers for many generations to wash the wool on the sheep's back, and this has naturally become the practice of the woolgrowers of English and Scotch descent in Canada. There has been some criticism of the fact that wool of class 2, though washed, is imported at a single duty, while wool of the first class washed is required to pay double duty, and it has been asserted that this provision of the tariff gives a distinct advantage to worsted as compared with woolen manufacturers.

"Such an assertion is based on a serious misapprehension of the facts. In the first place, this provision for a single duty on washed wools of class 2 is not of recent origin or inspiration. It has stood in our tariff law for almost 40 years. Indeed, it is indispensable if these combing wools are to be imported at all, for they are always washed by the growers themselves and are always imported washed, and they could not be imported at all if they were subject to a double duty; such a duty on these combing wools would absolutely prevent their use for the limited purpose for which they are employed by the manufacturers of America."

The only excuse here given for maintaining this duty at a single rate is "that it is not of recent origin, but has remained in our tariff law for 40 years." I can not see any reason for that making it right. We had scab in our flocks for about 40 years also, but we finally discovered a remedy just as we will do in this case.

Paragraph 365, Schedule K:

"The duty upon all wools and hair of the first class shall be 11 cents per pound, and upon all wools or hair of the second class 12 cents per pound."

Paragraph 366:

"Duty upon wools of the third class and upon camel's hair of the third class shall be as follows: If valued at not more than 10 cents per pound, 3 cents per pound; if valued at more than 10 cents per pound and not more than 16 cents per pound, thereunto one-half of 1 cent per pound for each 1 cent per pound the value exceeds 10 cents; if valued at more than 16 cents per pound, 7 cents per pound."

Paragraph 371:

"The tops shall be subjected to the same duty imposed upon the scoured wool of which they are made and 6 cents per pound in addition thereto."

Paragraph 374:

"On cloths, knit fabrics, and all manufactures of every description made wholly or in part of wool not specially provided for in this section, valued at not more than 40 cents per pound, the duty per pound shall be three times the duty imposed by this section on a pound of unwashed wool of the first class; valued at above 40 cents per pound and not above 70 cents per pound, the duty per pound shall be four times the duty imposed by this section on 1 pound of unwashed wool of the first class, and in addition thereto upon all the foregoing, 50 per cent ad valorem; if valued at over 70 cents per pound, the duty per pound shall be four times the duty imposed by this section on 1 pound of unwashed wool of the first class and 55 per cent ad valorem.

Let us reduce the reading of paragraphs 362 and 365, pertaining to class 1 wools to figures.

66⅔ per cent shrinkage:	
100 pounds, at 11 cents (grease)	$11.00
50 pounds, at 22 cents (washed)	11.00
33⅓ pounds, at 33 cents (scoured)	11.00
40 per cent shrinkage:	
100 pounds, at 11 cents (grease)	11.00
66⅔ pounds, at 22 cents (washed)	14.66
60 pounds, at 33 cents (scoured)	19.80

In the above table I have used 66⅔ pounds washed wool because we have already stated that wool loses from 25 to 33 per cent in being washed on a sheep's back, and have used 60 pounds of scoured wool because the average shrinkage on all wools entering our ports is about 40 per cent instead of 66.

From this we see that all wool imported shrinking less than 66⅔ per cent would be imported in the grease. As the average shrinkage on all wool imported is 40 per cent and not 66⅔ per cent, after being scoured the protective duty is $19.80, but the actual duty paid was only $11 by importing in the grease. If $11 represents the duty paid on 60 pounds of scoured wool, on 1 pound of scoured wool the duty was 18⅓ cents, and not 33 cents.

I wish to show the amount of protective duty per pound on wool of the Western States, Wyoming, Idaho, Washington, Oregon, California, Nevada, Utah, Colorado, and Texas, where the shrinkage is from 66 to 70 per cent, but we will take as an average 68 per cent.

On 100 pounds of this wool scouring 68 per cent there are 32 pounds of scoured wool.

Thirty-two pounds of scoured wool, at 18⅓ cents per pound, average duty paid, equals $5.86⅔, which represents the amount of protection we get on 32 pounds of scoured wool or 100 pounds of grease wool, and if on 100 pounds of grease wool our protection is $5.86⅔, on 1 pound of grease wool our protection is 5.86⅔ cents, which is about one-half of the 11 cents protection in the grease, provided for in the tariff.

TABLE OF COMPARISON SHOWING THAT 1 POUND OF SCOURED WOOL IMPORTED IN THE GREASE COSTS LESS THAN A POUND OF SCOURED WOOL FROM ANY OF THE ABOVE-NAMED STATES BOUGHT AT THE ABOVE-NAMED PRICE IN THE GREASE.

I will use 20 cents as the price, because I think an eastern buyer could find a trainload of wool at that price in the West to-day, and I will use 64 per cent as basis for shrinkage to include all Western States.

HOME WOOL.

100 pounds, at 20 cents		$20.00
64 per cent shrinkage	pounds	36
36 pounds cost		$20.00
1 pound cost		$0.55

IMPORTED WOOL.

100 pounds, at 20 cents		$20.00
40 per cent shrinkage	pounds	60
Duty, at 11 cents per pound		$11.00
60 pounds cost landed		$31.00
1 pound cost landed		$0.51⅔

From this table we see that an importer paying the same price per pound for wool, plus the duty in the grease, does not pay as much per scoured pound for foreign wool as he does for a scoured pound from anywhere West, showing that the present tariff bill does not take into consideration the difference in shrinkage by paying duty on a pound in the grease.

STATEMENT SHOWING DIFFERENCE BETWEEN THE DUTY PAID ON WOOL IN THE GREASE BY THE IMPORTER AND THE PROTECTIVE DUTY AFFORDED HIM AFTER BEING SCOURED.

One hundred pounds, at 11 cents per pound, duty in the grease, or 33 cents scoured, is supposed to have shrunk 66⅔ per cent in scouring, but as the average shrinkage is 40 per cent, then 100 pounds, at 11 cents duty in the grease, scouring 40 per cent, instead of 66⅔ per cent, leaves an importer 60 pounds of scoured wool instead of 33⅓ pounds, as supposed. Then an importer has 26⅔ pounds of scoured wool out of every 100 pounds of grease wool he imports upon which he has paid no duty, although he is protected to the extent of 33 cents per scoured pound, or $8.80.

During the year 1909 the United States imported about 175,000,000 pounds of classes 1 and 2 in the grease and 136,000,000 pounds of class 3; 175,000,000 pounds at 11 cents per pound duty, equals $19,250,000; taking 40 per cent as the average shrinkage on these wools we would have 105,000,000 pounds of scoured wool, on which the protective duty is 33 cents per pound; 105,000,000 pounds at 33 cents per pound equals $34,650,000, which is the protective duty on this amount; $34,650,000 less $19,250,000 equals $15,400,000 amount of protective duty, less actual duty paid by importing in the grease, leaves difference in duties which represents the amount of protection lost by woolgrowers, amount of revenue lost by the Government, but the consumer pays the same price as though these provisions had been carried out.

PROFIT ON SCOURED WOOL IMPORTED IN THE GREASE UPON BEING MANUFACTURED INTO CLOTH.

The bill states the duty per pound of cloth shall be 44 cents per pound, plus 50 per cent ad valorem. The manufacturer states it requires from 1¼ to 1½ pounds of scoured wool to make a pound of cloth, as an average we take 1½ pounds as an example. We have already shown the average duty paid amounts to about 18 cents per scoured pound; then 1½ pounds of scoured wool at 18 cents duty equals 24 cents actual duty cost on the amount of wool required for 1 pound of cloth. The protection of 44 cents per pound, less 24 cents duty cost, equals 20 cents per pound profit.

Taking the 105,000,000 pounds of scoured wool imported in the grease during 1909, with an average of 1½ pounds of scoured wool for 1 pound of cloth, we would have 78,750,000 pounds of cloth upon which the protective duty is 44 cents per pound, plus 50 per cent ad valorem, which protects the labor performed in transferring it from wool in the grease to cloth; 78,750,000 pounds of cloth at 44 cents per pound protective duty equals $34,650,000, which is the amount of protective duty afforded on 78,750,000 pounds of cloth, or on the 105,000,000 pounds of scoured wool at 33 cents per pound.

To substantiate the figures I have used I refer you to an argument appearing in one of the magazines between Edward H. Moir, president of the Carded Woolen Mills, and W. P. Whitman, president of the National Association of Wool Manufacturers, in which Mr. Moir states: "Some of the wool imported shrinks as low as 20 per cent, none of it shrinks more than 50 per cent, while the average is estimated by competent experts to be 40 per cent, so that a scoured pound costs as low as 15 and on an average of 19⅓ instead of 33 or 36, as supposed.

In the above reasoning I have purposely omitted all expense of handling, freight charges, scouring, etc., because that is practically the same, no matter what per cent of shrinkage the wool may have we are handling, and that expense is all covered when the duty on cloth is arranged at four times the duty of a pound in the grease, shrinking 66⅔ per cent, plus 50 per cent ad valorem; therefore all wool imported shrinking less than 66⅔ per cent would show as much profit as it shrinks, less than 66⅔ per cent and the cost of operation does not enter into our question of discussion.

By his reasoning I think I have demonstrated three things:

First. That the woolgrowers is not getting the protection that he thinks he is under our present protective tariff, Schedule K.

Second. That the manufacturer and importer by importing light shrinking wools and paying duty on the same per pound in the grease are winning and the Government losing millions of dollars annually.

Third. That the consumer has paid precisely the same price for manufactured articles as he would have paid had the woolgrower received the protection that he is supposed to get and the Government received the millions in revenue to which it is now entitled.

Now then, in answer to our original question, which is, "Why do manufacturers and importers prefer foreign wool with duty added to our own?" I say, simply because there is more profit for them so long as they are able to buy light shrinking wools, which is not difficult, while the skirted wool continues to come from Australia, the washed wools from Canada, the Angora-goat wool, camel's hair, etc., from various places under the present elusive tariff system.

We can see from this that the price of wool grown in the United States is not regulated by the amount produced or consumed therein, but by the amount of light shrinking wools imported under a false protection.

Contrary to these actual conditions under which the sheep industry is laboring, the public, including leaders of all political parties, are led to believe that the woolgrower is living in luxury and that the tariff on wool must be reduced, and was reduced on class 3 raw wool last winter, but not on the manufactured article, which only decreased our already small protection, increased the manufacturer's profit, and the consumer pays the same price for woolen goods.

From this we see whenever any cutting is to be done some one seems to point the big knife in our direction, so I say let the light be turned on the unequal protection of Schedule K as was done in the meat industry, the sugar industry, and the life-insurance business.

The investigation into the meat industry resulted in the enactment of the pure-food law, which gave to the consumer the means of knowing what he was purchasing, protects the manufacturer who is doing a legitimate business and exposes those who are not.

As to sugar, the recent investigation resulted in the exposure of corrupt practice in weighing, men being sent to jail, and duty is now collected on the per cent of purity.

As to the life-insurance business, before investigation took place many companies wrote policies that were all right upon the face, but various conditions on the back all summed up amounted to this fact: The policy would not be paid if the policy holder died a natural death or was killed by accident, but the exposure of these conditions resulted in good for the public and protected the insurance companies that desired to conduct their business on an honest basis.

Now, then, as good resulted in the investigations of the above industries to everyone concerned desiring to do the right thing so will it be in the woolen industry; then let us be the ones to start the investigation into the actual conditions surrounding this industry and place these conditions before the public so clearly that they can not help but see the good that will result to them by the enactment of a new law, which is inevitable; and the underlying principle of this new law should be that the duty on importations of wool shall be paid on the basis of a scoured pound.

This principle is not favored by either the carded or worsted manufacturers, because the duty on light shrinking wool could not be evaded as now. They are having a fight among themselves at present because the worsted men import more wool of light shrinkage than the carded men. The worsted men are trying to maintain the present system; the carded men are trying to have the duty paid on an ad valorem basis. This ad valorem duty would benefit the carded men and adjust the differences somewhat that now exist between them and the worsted men, but it would not be of much, if any, to the woolgrower, who will be protected when the per cent of shrinkage is taken into consideration, and not until then. Under the present system the importer brings in 1 pound class 1 wool on which he pays 11 cents per pound duty in the grease, and the supposition is that he will only have 5¼ ounces after he has it scoured, but he imports such wool that he has from 8 to 12 ounces after scouring, thus evading the duty on the difference between 5¼ ounces and the amount he may have, running from 8 to 12 ounces. If our system were based on a scoured pound, then the importer would pay for 5¼ ounces, 8, 10, or 12, whatever it might be accordingly, which is only fair to him and his opponents, and we would know the extent of our protection. In other words, when he has now paid the duty of 33 cents on a scoured pound he may have as much as 27 ounces of scoured wool. All we ask is that the duty be based on the proportion of 16 ounces per each pound of scoured wool.

Our opponents will say that the per cent of shrinkage can not be accurately determined, but I say that it can be done by actual test, just the same as the Government determines the percentage of alcohol in distilled spirits, such as alcohol, whisky, or brandy.

I believe there are men among us who can put Schedule K before the Tariff Commission and Congress so that the duties will be paid on the basis of so much per scoured pound, plus an ad valorem duty sufficient to equalize the difference in value of wool; the price to the consumer will be reduced and each woolgrower, whether he produces light or heavy shrinking wool, will be justly protected, and all parties concerned will get a square deal.

In conclusion I wish to say that I have merely presented this subject as I see it after careful consideration in the hope that good may result therefrom to the sheep business, for I am a fellow woolgrower and interested in the future of this industry the same as you. Our incomes are regulated by the same conditions; then I say let us study this tariff question carefully to discover if possible who all our friends are and who are not; let the public know that we are not getting justice, and that we need all that we are asking; then let the majority decide what plan of procedure will result in the most ultimate good, and all work and fight for that end as one.

As to the treatment given Mr. Ellenwood before the convention of woolgrowers held in Portland, Oreg., I shall insert the two editorials of the San Francisco Call, of dates January 15 and 22, 1911, which are as follows:

EDITORIALS IN SAN FRANCISCO CALL.

[San Francisco Call, Jan. 15, 1911.]

While the recent convention of woolgrowers held in Portland, Oreg., was not a happy occasion, it was notable for the queer diagnosis of the malady with which that industry is afflicted. It appeared to be the prevailing sentiment that the depression in the market for raw wool was due to the current public demand and agitation for a radical revision of Schedule K in the tariff, which prescribes the duties on raw and manufactured wool.

There was sore lament over Mr. Taft's "backsliding" on this matter. The accepted opinion among the growers appeared to be that the only relief for the depression that afflicts their industry lies in still higher protection for their product.

The notorious fact that Schedule K was cunningly drawn by the wool manufacturers with the purpose of humbugging the growers upon the pretense that they are getting protection, when in fact they do not, has not yet penetrated the intelligence of the sheepmasters. They do not understand that Schedule K gives them with one hand what it takes away with the other.

How should it be otherwise? Everybody knows that Schedule K was drawn by and in the interest of the manufacturers who maintain a permanent lobby for that purpose. Now, it should be clear to the growers that every dollar of protection given to the raw material is just so much money out of the pockets of the manufacturers. Schedule K is a very ingenious and purposely complicated instrument, and one of the chief objects of these complications is to persuade the woolgrowers that they are given a real protection. The growers might very well ask themselves what is the good of protection which is attended by falling prices and depression of the industry? The truth is they are being humbugged by the manufacturers who made the tariff.

[San Francisco Call, Jan. 22, 1911.]

By the way of an interesting sidelight on the politics of the wool tariff and the methods by which the woolgrowers are humbugged and fobbled off with a nominal protection which does not help them at all, it appears that the recent annual convention of the growers held in Portland, Oreg., was dominated by the manufacturers, with the result that papers prepared by producers of wool with the purpose of explaining the tariff juggle were denied a hearing. Fred A. Ellenwood, of Tehama County, in this State, prepared a paper in this relation, from which we may quote his conclusions, as follows:

First. That the woolgrower is not getting the protection that he thinks he is under our present protective tariff, Schedule K.

Second. That the manufacturer and importer by importing light shrinking wool and paying duty on the same per pound in the grease are winning and the Government losing millions of dollars annually.

Third. That the consumer has paid precisely the same price for manufactured articles as he would have paid had the woolgrower received the protection that he is supposed to get and the Government received the millions in revenue to which it is now entitled.

Now, then, in answer to our original question, which is, Why do manufacturers and importers prefer foreign wool with duty added to our own? I say, simply because there is more profit for them so long as they are able to buy light shrinking wools, which is not difficult, while the skirted wool continues to come from Australia, the washed wool from Canada, the Angora goat wool, camel's hair, etc., from various places.

We can see from this that the price of wool grown in the United States is not regulated by the amount produced or consumed therein, but by the amount of light shrinking wools imported under a false protection.

The woolgrowers are beginning to wake up to the fact that in the name of a pretended protection they are being cheated for the profit of the manufacturers, whose case is so indefensible that they maintain a retinue of political agents to hoodwink the conventions of growers and get control of these bodies so as to shut out any sort of exposition or discussion intended to bring out the facts.

In this same connection I will here insert a statement by the California Woolgrowers' Association, as it relates to the question; also the papers of Mr. Ellenwood and the paper of Mr. Blume and the Call editorials:

During the year 1910 we witnessed many important changes in the field of invention and along lines of political progressiveness. It is with the latter subject we are concerned in this discussion. The reason for such pronounced economic and political advancement can be attributed to the fact that men have been honestly thinking and investigating. Differences of opinion on most political questions arise from too little information concerning them. We allow others to do our investigating for us.

NOTHING BUT TALK.

The one question that has been discussed more than any other and for a greater period of time, and without giving us any important facts is the tariff question. Particularly do we desire to call your attention to that part of it designated "Schedule K," or the tariff pertaining to wool and woolens. This schedule is complicated, and like most others has received little study from the parties most interested—the sheepmen. During the past year, however, newspapers, magazines, and progressive political leaders have placed the subject before us in a manner that impels us to think and act.

On the other hand, manufacturers and importers have been studying the question most carefully; they have been interested in the subject with a view of advancing their own ends, and have instructed their political representatives, as well as our own, how Schedule K should be worded. They have been well paid for their careful work.

Some are opposing this schedule because they are aware of its injustice; some are defending it because it is to their especial interest to do so. Sheepmen have defended it because they have been misled as to its operations, and many are still defending it because they fear an exposure might result in even less protection.

STUDY THE QUESTION.

It is our opinion that a careful study of Schedule K by thinking men in all political parties must result in an almost unanimous verdict as to its present inequalities, and sustain the contention of sheepmen that their present protection is minimum, and that any reduction would mean ruination of the business and a reduction in the supply of mutton, with correspondingly higher prices for meat.

INTELLIGENCE NECESSARY.

It is the object of this association to place before its members and others interested all the information possible on the tariff question, and urge the importance of careful thought on the subject. The papers arranged in this pamphlet have been published for the benefit of thinking men, with the hope that they will read carefully and be prepared to defend the principles of protection, which are essential to our business. These principles can not long survive unless we rid them of the inequalities and injustice that now exist in the present Schedule K.

BUT ONE CONCLUSION.

We feel that the articles contained in this pamphlet should carry with them the weight of conviction. The conclusions arrived at are identical, although they were written by men in widely different sections of the country, and are the result of personal investigation.

The first is by Mr. Greene, an old woolman of Philadelphia; the second is by State Senator Fred Blume, of Wyoming; while the third is from the Pacific coast, by Fred A. Ellenwood, who is interested in the sheep business in California.

We ask that you read these papers carefully. Notice the editorials in the San Francisco Call on the same subject, and "think it over," for we believe that tariff agitation will never cease until the question is settled right.

Respectfully, CALIFORNIA WOOLGROWERS' ASSOCIATION.

I will also insert in this connection, from an address of Senator Fred H. Blume, of Sheridan, Wyo., delivered at the National Woolgrowers' Association at Portland, Oreg., January 6, 1911, the following:

PROTECTION FOR WOOL AND WOOLENS.

I now take a step forward. I may tread on delicate ground. No man in public life in the West, so far as I know, has ventured far into the field of criticism of Schedule K. But the time has come when plain speaking is necessary. The agitation in the East in reference to that schedule has become so vehement and persistent that it is absolutely essential for the woolgrowers for their own protection to analyze the law, take the position against discrimination, and take a stand which accords with reasonable justice to all. We can not, of course, overlook the interests of the manufacturer. The worsted makers, with $162,000,000 capital, consuming annually 260,000,000 pounds of wool and employing 70,000 people, should be protected. The carded-woolen men, with $140,000,000 capital, consuming annually 160,000,000 pounds of wool and employing 72,000 people, should be looked after. The makers of carpets and rugs, with $60,000,000 capital, consuming annually 50,000,000 pounds of wool and employing 35,000 people, should be considered. These people must be protected, because they have to compete with 50 cents a day labor in Germany and 75 cents a day labor in England. In this protection the woolgrower is vitally interested. If the manufacturing industry suffers, wool finds no profitable market. But the carpet manufacturer asks for cheaper wool at the expense of the woolgrower. The worsted makers are in a quarrel with the carded-woolen men, and they both want your support. Yet you ought not to be expected to settle the strife between them, neither ought either side expect or want you to suffer by reason of their trouble. It is unfortunate that your interests are so closely linked to those of the manufacturer. But they are, and you must make the best of it. Heretofore the woolgrowers have been in combination with the manufacturers of worsted goods. An agreement between them and a reasonable understanding with or pacification of the carded-woolen men up to and at the time of the passage of the Dingley law created satisfaction with Schedule K, or at least drowned the voices of opposition. But the time has come when you are compelled to make a combination, not alone with the worsted men, not alone with the carded-woolen men, but you are forced also to make a combination with the American people, who have expressed their dissatisfaction with the law in no uncertain tones. A revision seems to be coming. Ohio, New York, Indiana, and the Middle States generally have adopted the view favoring a permanent Tariff Commission and a revision of one schedule at a time. The tariff on wool and woolens will probably come in for the first round. What position are you to take in the struggle which will ensue? If you take a stand of impartiality toward all, yet of injustice to none, no person can, centainly not reasonably, take exceptions thereto. The great sheep industry, making happy homes for thousands, wresting sustenance from deserts, limited only by the confines of the oceans, is certainly entitled to your first consideration.

The law imposes a duty of 11 cents a pound upon unwashed wool of the first class, 22 cents upon the washed, and 33 cents upon the scoured wool of that class. It assumes that the shrinkage is 66⅔ per cent; that it takes 3 pounds of unwashed wool to make 1 pound of clean wool; that a further loss of 25 per cent ensues up to and including the time when the wool is woven into cloth; that therefore 4 pounds of wool in the grease are necessary to make 1 pound of cloth. Inasmuch as the law assumes that the manufacturer is compelled to pay this tariff, either by way of tax to the Government or by way of additional price upon the home product, it undertakes to compensate him for such expenditure, and justly, so as to place him upon an equal footing with the foreign manufacturer, who has free wool. From this arises the so-called compensatory duty of 44 cents per pound of cloth, which the law gives him in addition to the 50 per cent ad valorem protection against the cheap labor of Europe. Hence the now famous ratio of 4 to 1, which originated in 1867, and which has stood practically unmolested to the present time, except under the Wilson bill. There are those who think that this ratio is sacred; they deem sacrilegious those who have attacked it, or who have questioned the wisdom of any part of Schedule K. But conditions which existed a half century ago have changed to some extent, and some men lately have ventured the suggestion that perhaps errors crept into the woolen schedule which are now becoming apparent; that the manufacturers obtain, at the expense of the woolgrower, compensatory duty to which they are not entitled; and that whatever may have been the facts in the past, a system can now be adopted which will give the compensatory duty where it belongs, and stop all contention with reference thereto.

Bear in mind that this compensatory duty is based on the theory that the wool that makes up the cloth, and on which the duty is paid, shrinks 66⅔ per cent, and that it takes 4 pounds of wool in the grease to make 1 pound of cloth. But the facts are that the actually imported wool shrinks no such amount as the law assumes. The theory of the law gives you 11 cents protection for each unwashed pound; it gives you 33 cents protection for each scoured pound. But the wording of the law is a delusion, and the facts fall very far short of corresponding with the theory. Not a pound of scoured wool—at least intentionally—is brought here. Some of the wool is permitted to be imported in a skirted condition. The skirting diminishes the shrinkage. Some classes of wool shrink considerably less than 66⅔ per cent, and it is this class of wool that is actually imported into the United States. The importer wants the least-shrinking wool, so as to pay as little as possible on the dirt contained in the wool. If the wool imported shrinks 66⅔ per cent, it will, of course, cost the importer 11 cents for the wool in the grease and 33 cents for each clean pound. If it shrinks only 20 per cent—that is, if he gets eight-tenths of a clean pound out of the greasy wool imported—this eight-tenths of 1 pound costs him 11 cents, which makes 13¾ cents for a clean pound. If the shrinkage is 50 per cent, each clean pound costs him only 22 cents; if the shrinkage is 40 per cent, each clean pound costs him only 18½ cents, instead of 33 cents, as is contemplated by the law. Thus, let me repeat, it is of the greatest financial interest to the importer to obtain that wool that shrinks the least. Hence has arisen a commercial phrase, and there has been established a regular trade in wool "fit for importation into the United States," and the wool that goes into clothing actually imported into this country shrinks, it is estimated, on the average, little more than 40 per cent.

This amount of shrinkage, as stated before, means a cost of 18½ cents on the average for every scoured pound imported, and which in turn means, upon the principle heretofore stated, that, other conditions being equal, this amount and no more will be added to the price of the home product. Territory wool shrinks approximately 66⅔ per cent. A clean pound of this—which is equivalent to 3 pounds in the grease—is protected by 18½ cents; or, in other words, the growers of this wool are protected on the average to the extent of only 6¼ cents on every pound of wool in the grease, instead of to the extent of 11 cents, as contemplated by law. They receive a little more than one-half of what they were promised. They have been deceived into believing that the law meant what it said. And yet so sacred has become this law that anyone daring to assail its hallowed name has been branded as a traitor to protection and a common enemy of mankind. The estimate I have made herein is conservative. The differences in freight rates and value and skirting will probably reduce the actual protection still further.

A study of the prices of the home wool before and after the passage of the Dingley law conclusively proves the general line of statements made herein. The price of Ohio medium washed in October, 1896, before McKinley was elected, and before any good effect of his election was therefore felt, was 19½ cents; in October, 1898, when the Dingley law may be said to have had time to show with full force, the price was 30 cents, making a difference between the two dates of 10½ cents per washed pound, equivalent to about 17½ cents per scoured pound. The price of Territory scoured wool, medium clothing, in October, 1896, was 27½ cents; in October, 1898, 44 cents, a difference of 16½ cents; or, in other words, the effect of the Dingley law showed a protection of 5½ cents for the grease pound, instead of 11 cents, as contemplated by the law.

While the law thus has utterly deceived the woolgrower, it has at the same time dealt magnanimously with the maker of goods who imports and uses low-shrinkage wool. He pays on the average of 18½ cents' tariff for every scoured pound. Figuring that the further shrinkage in the process of manufacturing cloth is 33⅓ per cent instead of 25 per cent, as assumed by the law—that is, that it will take 1⅓ pounds of clean wool to make 1 pound of cloth, which, I think, considering the value of the by-products, is ample measure—this would run the tariff cost of cloth up to 27½ cents per pound. But the law gives him, instead, a compensatory duty of 44 cents. It gives him approximately 16½ cents as compensation for money, intended as protection to the woolgrower, and supposed to have been paid out, but which was not in fact done, and goes therefore into the pockets of the manufacturer, excepting in so far as competition at home reduces the amount of this special benefit. This, of course, does not apply in the same measure in all cases. In particular instances the benefits vary, depending on how much the shrinkage of the imported wool varies from the basis of 40 per cent which I have taken, and depending further on the fact as to whether the amount of shrinkage of clean wool to cloth, considering the value of the by-products, is more or less than 33⅓ per cent. But

there seems to be no doubt that in nearly all cases a handsome benefit accrues that belongs to the woolgrower. The maker of goods is protected by the ad valorem tax; he is not entitled to any protective benefit from the compensatory duty. The law was intended to give that benefit, at least up to 33 cents per pound, to the woolgrower; and if the manufacturer is not adequately protected, then the necessary additional protection should not be taken or given by diminishing to that extent the protection to the woolgrower.

The chief difficulty in the woolen schedule lies in the fact that it is based upon an incongruity. Nature has put an insuperable obstacle in the way of a just operation of the present law. Some wool shrinks 80 per cent of each pound, leaving only two-tenths of a clean pound; some wool shrinks only 20 per cent, leaving eight-tenths of a clean pound. No person buys wool for the dirt contained in it. Yet the man who receives the two-tenths is asked to pay the same tax as the man who receives eight-tenths. The woolgrower is not the recipient of any benefit of such discrimination. The lower the shrinkage of imported wool, the less protection for you; the higher the shrinkage of imported wool, the greater the protection for you. The benefits of the inequality accrue to the importer of low-shrinkage wool. The carded-woolen people contend that they are compelled to use the high-shrinkage kind, and that the worsted makers are the only beneficiaries. I am not here to discuss the merits of the contention between the manufacturers. But inasmuch as the woolgrowers are vitally interested in the question, which side will they take, what attitude should they assume?

Besides, while wool of the first class in a washed condition pays under the law 22 cents a pound, wool of the second class—otherwise called combing wool, imported mainly from England and Canada—pays in a washed condition only 12 cents a pound. The latter is a luster wool. Its value is about the same as wool of the first class; its natural shrinkage is low; and when brought over here, as it is, in a washed condition, its shrinkage is about 25 per cent, costing the manufacturer about 16 cents a clean pound, instead of 36 cents, as the law contemplates. Why this discrimination? The woolgrower receives no benefit from it, but is injured. The ability to import this wool at a comparatively low price operates as a check upon the advancement of the price of the home product. It has been contended that this wool did not compete with your wool, and that the importation thereof in any event is small. But I find that during the fiscal year 1909, ending June 30, 1910, the imports of this class of wool amounted to 31,000,000 pounds, equivalent to at least double that of the ordinary kind of wool of the first class, on which the importers, on account of the low duty, saved in the neighborhood of $3,000,000. As to whether the worsted makers are benefited and the carded-woolen men are injured by the difference in the duty on this class of wool is not for you to settle. But your interests are vitally affected, and upon your attitude much may depend. While your position should be that of impartiality, it should at the same time be one that accords with justice, so that in the coming struggle you will be able to appeal to all of the people to give you that protection to which you are justly entitled.

What, then, is the solution of this problem? In the first place, it seems to me that English and Canadian combing wool should pay the same tariff that is paid by clothing wool. This would be decidedly advantageous to the woolgrower. It would at the same time do away with any claim of injustice and discrimination between the two classes of manufacturers. In the second place, no sound reason can be advanced why the tariff should be paid upon the basis of wool in the grease. The tax should be paid upon the wool, the clean wool, not the dirt. Some have contended against the ability of the customs officers to measure the scoured contents of a quantity of wool with accuracy, and that mistakes and errors varying from 2 to 5 per cent would be bound to occur. However, all wool—that in Oregon and that in London—is bought upon the basis of the scoured contents. The wool buyer from Philadelphia comes out here, examines your wool, makes his estimates of the scoured contents, and upon that bases his price. The same thing is true in the great wool markets in London. And, in any event, a method of administration permitting errors of from 2 to 5 per cent is greatly preferable to a system of taxation in which it is possible that one man pays 400 per cent more tariff upon the same weight of clean wool than another.

The proposition is not a new one. It has been indorsed by the officers of the Montana Woolgrowers' Association in 1908, and by a great many prominent practical men in the country. The New York Conditioning Works on February 4, 1909, after referring to the system existing in this country now and the proposed system, and referring to the practical tests made in conditioning houses in France, Germany, and England, stated further: "This is the point which American manufacturers are now trying to reach, and which such establishments can define with accuracy and impartiality as to the textile materials in the raw state as well as in various stages of advancement." And, further on: "From the facts adduced with regard to the present system, it is evident that while the proposed method of levying duty might fall short of accuracy, it would be a far more equitable plan than that now in operation."

One plan to work out this principle has been to grade the wool according to shrinkage and compel it to pay duty accordingly, as follows: Shrinking over 65 per cent, 11 cents per pound; shrinking 55 to 65 per cent, 13 cents per pound; shrinking 45 to 55 per cent, 16 cents per pound; shrinking 35 to 45 per cent, 20 cents per pound; shrinking 25 to 35 per cent, 24 cents per pound; shrinking 15 to 25 per cent, 27 cents per pound; shrinking less than 15 per cent, 33 cents per pound. This equals a tax of approximately 33 cents per scoured pound upon all wool equally, whether shrinking 15 per cent or 65 per cent, whether shrinking 25 per cent or 55 per cent.

Comparing that with the present system, we find that most of the wool imported pays considerably less than that, the tax on clean wool of the first class ranging as follows: Shrinking 66 per cent, 33 cents per pound; shrinking 45 per cent, 24.4 cents per pound; shrinking 45 per cent, 20 cents per pound; shrinking 35 per cent, 17 cents per pound; shrinking 30 per cent, 14 cents per pound.

Whether the foregoing proposed method be used or a simple method of estimating the scoured contents of the wool and making it pay 33 cents per pound would make no difference. In either case the scoured wool would be upon the same basis. The law now says that it shall pay 33 cents; this you are guaranteed; to this you are, according to the theory of the law, entitled by way of protection; and it is about time that the public understand and realize that the actual protection which you now receive is, on the average, little, if any, more than half of that.

That an amendment to the law, adopting either of the methods mentioned, would be infinitely better for the woolgrower, and that it would at the same time place the manufacturer upon an equal footing, seems to me to need no argument. That the idea should be embodied into law seems to be beyond question, if the law is capable of successful operation, and I believe it to be so, under the advantages of the scientific knowledge of the present day. If the Boston wool buyer is shrewd enough to judge the wool on the plains of the mountain States, the Government ought to afford experts to do the same in the customshouses. If conditioning houses in Europe give satisfactory results in the estimate, no reason should exist why we should lag behind. While it is well enough to move slowly in the dark, we should not hesitate while in the light, and the age and supposed sanctity of the law, or an idea, should not be a bar to the march of progress.

It was extremely unfortunate that Schedule K was not, at least in the minds of the people, settled in the last revision. Changes and threatened changes in the tariff always have a demoralizing influence upon industry. The low market on wool during last year was to a large extent due to the unsettled condition of this problem, and it will not be settled until it is settled right. While the worsted men must be amply protected, while due consideration must be given to the wants and needs of the carded woolen men, the great industry of the sheepmen must not be neglected; and if in the coming struggle you look after your own interests, while at the same time taking a stand in accordance with the principles of justice and right, none should have any just cause for complaint.

There is a feature of this problem which I can not overlook. That is the question of assessing an ad valorem duty on wool, instead of a specific duty. To adopt the ad valorem principle would be greatly injurious to your interests, for the reason that when the price is lowest you need the duty most. To illustrate, suppose the duty to be 50 per cent; when the price of the imported wool is 15 cents per pound the duty paid would be 7½ cents per pound; but if the price of the wool is at 5 cents the duty would be only 2½ cents per pound. Yet in the latter instance you need the 7½ cents protection considerably more than in the former. It is not an answer to say that the duty upon woolen goods, outside of the compensatory duty, is ad valorem, because the ad valorem duty in that case is assessed for protection mainly against the cheaper labor of Europe. The price of labor does not vary materially from time to time, while the price of wool varies sometimes enormously from year to year and even from one season to the other.

Many other problems are involved in the tariff on wool and woolens. There is, for instance, the troublesome question of duty on carpet wool, which pays a duty of 4 cents or 7 cents per pound, depending on whether its value is below or above 12 cents per pound. The importations amounted to 66,000,000 pounds in 1907, to 101,000,000 pounds in 1908, and to 120,000,000 pounds in 1909. The amount of wool consumed in the carpet industry in 1905 was 51,000,000 pounds. I can not explain the enormous amount of importations of this wool in the last two years, and in other years, except upon the theory that a great deal of it is used in the manufacture of clothing instead of being confined to the carpet industry, and on account of the low tariff thereon has a depressing effect upon the price of the home product. But I can not enter into this and other questions at this time. Schedule K is the most complicated of any in the tariff law, and it takes the combined thought of the best minds to evolve a law which accords even in a reasonable degree with the interests of the woolgrower, the manufacturer, and the people. I have called your attention to a few important propositions which are of vital interest to you and which must be thoroughly considered, so that you may be able to aid, in the future, in framing a wool and woolen schedule which will be more satisfactory all around. It is useless for you to attempt to have the law remain without changes. It is useless to appeal to the age of the present law; age never lends enchantment to inequality or injustice, and the halo of the past becomes extinct in the light of the features of to-day, which are practical and right at the same time. It is useless to deplore tariff agitation; it is here, and here to stay until the subject is settled along just lines.

The protests against the tariff have been like a gathering snowfall. It is true that revision along certain lines is necessary; but the general public, ill informed on the tariff because of its intricacies, frequently misconstrue the ideas and aims of the true friends of revision; it will condemn at times where condemnation is unjust and will prefer to break rather than to mend. Special favors found hidden in one place are apt to be construed to be universal; the discovery of jokers in one paragraph is often considered a certain indication that they are present in every other. The injustice of such an attitude is clearly apparent and the danger therein enormous. But this must be reckoned with; the people are the ultimate court from which no appeal can be taken. Extremists, therefore, either way, have no place in the councils of the Nation in framing a tariff law—a law which affects profoundly every artery of the Nation's commerce. Perhaps by 1912 a calmer attitude will prevail.

In this connection I will insert a statement showing the cost of sheep operation and wool production, as compiled from the books of the Cone & Ward Co., a corporation of Red Bluff, Cal., for the year ending December 31, 1910, and furnished by Mr. Ellenwood:

Statement showing cost of sheep operation and wool production, as compiled from the books of the Cone & Ward Co., a corporation of Red Bluff, Tehama County, Cal., for the year ending December 31, 1910.

This company has for the past 35 years engaged exclusively in the sheep business, running the merino type of sheep, thus making its prime object the production of wool, having no farming operation with it. It operates upon the range plan and is therefore a very fair example of the sheep operation in the State of California.

INVESTMENT.

Winter range, including improvements, 41,115 acres, at $2 per acre	$82,230.00
Summer range, including improvements, 2,359 acres, at $7.50 per acre	17,692.50
Sheep (old), 10,500 head, at $3.50 each	36,750.00
Sheep (lambs), 5,000 head, at $2 each	10,000.00
Equipment, including horses, wagons, and general camp equipment	3,500.00
	150,172.50

EXPENSE.

Interest on above investment at 6 per cent		$9,010.35
Pay roll		7,250.25
Administration		1,200.00
Board of employees		1,891.92
State and county taxes		2,724.83
Pasture and leased land:		
Spring pasture (for fattening mutton)	$54.60	
Summer pasture—		
Forest reserve	482.00	
Timber land	392.65	
Fall pasture	3,215.40	
		4,144.65
Shearing:		
Wages of shearers	2,251.78	
Bags and fleece twine	163.90	
Insurance on wool	120.10	
Storage on wool	90.81	
		2,626.59
Road and traveling expense		505.46
Bucking expense, 7,000 ewes, at 10 cents each (this charge covers interest on ram investment, loss and depreciation on same)		700.00
Feed for work stock		498.85
Special county sheep license on summer range		197.50
Varmint bounty		102.50
Dipping (medicine)		153.90
Salt		94.01
Marking ink		50.30
Insurance (on improvements)		42.38
Sundry expense items		460.75
Depreciation:		
Improvements valued at $5,000, 10 per cent per annum	$500.00	
Equipment valued at $3,500, 15 per cent per annum	525.00	
		1,025.00
Total expense		32,679.22

SUMMARY.

Total amount of expense per schedule		$32,679.22
Average number of sheep run for year (this is based on the total number of old sheep, 10,500, and 5,000 lambs for half of year, or one-half total number of lambs for whole year, 2,500)		13,000
(Cost per pound to produce wool, 14.5 cents.)		
Total expense for year's operation		$32,679.22
Average number run for year		13,000
(Average cost per head, $2.513.)		
Cost per pound to produce wool:		
Number of pounds of wool produced during year		138,884
Value of sheep sold during year		$12,549.87
Gross amount of running sheep		$32,679.22
Less amount received from sale of mutton		12,549.87
Net cost to produce wool		20,129.87
(Cost per pound to produce wool, 14.5 cents.)		
Sales, 1910 (including holdover from 1909):		
Spring clip, 80,636 pounds, sold at 18 cents per pound		$14,514.48
Fall clip, 80,854 pounds, sold at 11⅝ cents per pound		9,399.28
Total sales, 161,490 pounds		23,913.76
		Cents.
Average per pound received		14.8
Average per pound to produce		14.5
Profit per pound to grower		.3

Mr. Ellenwood wrote me on this same subject of date May 23, 1911, and that letter I shall here insert, as it plainly shows the working of this indefensible Schedule K:

CALIFORNIA WOOLGROWERS' ASSOCIATION,
OFFICE OF SECRETARY,
Red Bluff, Cal., May 23, 1911.

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.

DEAR SIR: Again referring to yours of recent date, I am sending the pamphlet you requested, as well as a statement taken from the books of the Cone & Ward Co. for the year 1910, furnished by Mr. T. H. Ramsay, who will vouch for its correctness.

From this you will see that the total expense of operating this outfit for the year is $32,679.22, and after replacing the loss and maintaining the same number of sheep in the outfit, then there was $12,549.87 sold in mutton—this amount deducted from the total expense leaves $20,129.35 of expense that must be met in the production of wool, and this amount divided by the 138,884 pounds of wool produced makes the cost per pound of wool in the grease to the grower 14½ cents, and in this same year the selling price was 18 cents for spring wool and 11⅝ cents for fall wool, making an average selling price of 14.8 cents per pound. This statement is absolutely correct, and conclusively shows that the sheepmen of the United States can not continue in this business unless a duty is maintained on the raw material, or wool in the grease, and it must be one that can not be juggled as the present Schedule K.

Briefly, I wish to call your attention, first, to that part of my paper, on page 12, paragraph 1, showing that the washed wool from Canada and England enters our ports at a single duty of 12 cents per grease pound, with an average shrinkage of about 30 per cent, whereas one reading the law would infer that no washed wools could enter the United States without paying a duty double the amount that it would be on 1 pound of the same class in the grease. The amount of wool entering the United States in this manner averages about 15,000,000 pounds per annum. Secondly, the duty per scoured pound—the bill states the duty on a scoured pound shall be 33 cents on class 1, or merino wool, and 36 cents on class 11. On page 13, column 1, I think I have shown, by importing in the grease, then scouring afterwards, the duty actually paid amounted to only about 18 cents per scoured pound, when the shrinkage is about 40 per cent, and on the Canada wool mentioned above the duty per scoured pound would be much less than 18 cents, as the shrinkage is less than 40 per cent.

Now, the woolgrower has been blindfolded and led to believe that his protection on every pound of wool in the grease was 11 cents, because Schedule K so states. I think I have plainly shown that the average is not more than 5½ cents per pound, as the shrinkage of all western wool is from 62 to 69 per cent, while the wool imported shrinks, on an average, about 40 per cent, seldom over 45, and often as low as 25. On page 13 you will notice if an importer pays 20 cents for wool in Australia and 20 cents for California bright spring wool he can pay the 11 cents duty in the grease and still have a scoured pound of foreign wool, costing less in Boston than a scoured pound of California wool, which is plain, I think, and shows the woolgrower really has no protection under this arrangement of Schedule K.

On the other hand, I do not blame those who are looking out for the welfare of the consumer, for he is surely being robbed every time he buys a piece of cloth containing as much as 1 per cent of wool. On page 14, I think, I have shown where most of this profit goes. There is a duty on a pound of cloth which is 44 cents per pound, plus 50 per cent ad valorem, upon the assumption that a pound of cloth requires 4 pounds of wool in the grease to produce, which would be true if the wool imported shrank 66⅔ per cent in scouring. But here is the secret to the whole story, as nearly all wool imported is the very lightest in shrinkage; yet the duty on cloth is fixed under the false assumption thatimported wool is heavy shrinkage. In this paper I have only shown the profit from imported grease wool to cloth, if the cloth were all wool, but the duty on cloth is just as much if only 10 per cent wool, thereby making a profit many times more than I have shown to some one or many between the woolgrower and the one who buys a pound of cloth.

Please notice carefully in Mr. Greene's paper where he states the wearing quality of our heavy-shrinking wools grown in the United States is much more than in the light-shrinking wool imported.

In 1909, if you refer to the statistics, you will notice the amount of wool imported almost equals the amount produced in the United States, or the amount imported was 44½ per cent of the total amount consumed in the United States; while in 1893 and 1894, with no duty on wool in the grease, the amount imported was about one-fourth of the amount consumed, although the importation of cheap shoddy stuff was tremendous. These figures, I think, show there is more inducement for the importer to bring in wools under the present arrangement of Schedule K than if there was no duty at all, as in 1894, while the woolgrower and consumer are both suffering because they are blindfolded by those specially benefited in the working of this indefensible Schedule K.

The present wool prices here and abroad are evidence enough, I think, to cause us to stop and think. Last week the choice spring wool at Red Bluff sold from 12 to 15½ cents per pound, while merino wool in Australia, New Zealand, and Argentine Republic is quoted at from 15 to 23 cents per pound (gold). Can you see where 11 cents duty per pound in the grease is too much in its present arrangement? Some are advising the cutting of that duty in two as a remedy for the injustice they know is now contained in Schedule K. This would mean millions of dollars loss in revenue to the Government, ruin the sheep industry of this country, and be of but little benefit to the consumer. Let me ask, Why not cut the duty of 33 or 36 cents per scoured pound, as at present, in half and then collect the duty on all wool imported on a scoured basis, or not allow it to come in only in the scoured condition, then arrange the compensatory duty for the manufacturer on a pound of all-wool cloth at one and one-quarter or one and one-third times the duty on a scoured pound of wool, with an ad valorem duty in adition if thought justifiable? Suppose the duty was 18 cents per scoured-pound basis, then the duty on one pound of cloth would be 24 cents, and not 44, as now. The woolgrower in this case would be protected to the extent of about 5 cents per pound in the grease, to which, I think, he is entitled, with no more free range, and wages $40 to $50 per month, while in no other countries do they pay more than $20 for the same labor, the price of cloth to consumer would be reduced and the illegitimate profit of the importer would be lessened, yet allow him and the manufacturer justice.

As indicated to you and all our Congressmen from California by our night letter, we beg of you to delay action on Schedule K until the winter session, when the Tariff Commission will have before it their report, and as one of your supporters at the last election I hope you will analyze this schedule and consider the claim of the sheepmen that a duty is essential for the continuance of our business, and further, that this schedule needs revision, and badly, too, which can be done, and secure justice to both grower and consumer, which neither one are getting under the present arrangement of Schedule K.

As I am busy getting off to the mountains in Lassen County for the summer, I will ask you to address me at Susanville, care of Alexander & Knoch. Should you care to be bored with any more of the sheepmen's troubles, and should you be near Alturas, Hayden, Fall River, or Susanville this summer I would like very much to arrange to meet you at any of the above-named places and go over the entire situation with you more thoroughly.

Thanking you for the interest you have already shown in our behalf, I am,

Very truly, yours,

FRED G. ELLENWOOD,
Secretary.

I here insert a statement of the Mono Live Stock Association, adopted at Bridgeport, Mono County, Cal., on July 31, 1911, which fully explains itself:

The annual meeting of the Mono Live Stock Association was held at the courthouse at Bridgeport, Mono County, Cal., on July 31, 1911. Among other proceedings the following article, now going the rounds of the press, was read:

EXPERTS POINT CHEAPER WOOL—PRESIDENT TAFT'S INVESTIGATOR SAYS PROFITS OF $1.81 ON EVERY SHEEP RAISED.

W. C. Barnes, representing President Taft and the Tariff Board in checking up the information gathered by special agents of the Government on wool and sheep industries, arrived in Ogden, after visiting four of the largest sheep States of the West. In a statement made public he says the data obtained proves that sheep can be raised and wool clipped and marketed and lambs disposed of at a cost of $1.50 per head, the annual revenue from which wool, at 13 cents, totals $3.31, leaving a profit of $1.81 a head. His figures are as follows:

"Cost per head to raise sheep, all expenses incident to grazing, herding, shearing, dipping, lambing, freight on wool and mutton, interest on money invested, etc., $1.50.

"Average clip of wool per head, 7 pounds, at an average of 13 cents per pound, delivered, 91 cents.

"Average price of lambs, $5; average increase being figured at about 80 per cent placed on the market, $2.40.

"Total receipts, $3.31. Total net receipts per head, $1.81.

"Mr. Barnes states that there may be a slight variation in the cost of raising sheep and the marketable value as to the wool clip, lambs, and mutton, but that the above figures show quite accurately what the average is in the Territory over which he has traveled. He suggests that the cost of raising sheep might be reduced considerably by better business methods by sheep owners."

After the reading and filing of the same the members took up the matter and the following resolution was adopted:

"*Resolved*, That said article is not correct either in substance or in fact, and that whilst it may apply to some years ago, it does not apply at the present time for the reason that prices of all the commodities have greatly increased and the wages now paid to herders and other employees are now almost double that paid in former years.

"*Resolved*, That the following figures show the actual cost of raising, grazing, herding, and pasturing sheep, and other actual and necessary expense, said figures being based on a band of 1,800 sheep, that being the general number included in one band:

Feed, per head	$0.135
Taxes and license, per head	.125
Shearing, per head	.14
Wages, board, and lambing	.86
Salt, per head	.03
Bucks	.185
Ten per cent loss	.40
Total, per head	2.875

"And that the average price of sheep is $4 and lambs $3.

"*Resolved*, That each member of this association is ready and willing to make affidavit to the correctness of this statement.

"*Resolved*, That the Secretary have printed 100 copies of this resolution, and that a copy be furnished each member and copies forwarded to President Taft, the chairman of the Tariff Commission, the National Wool Growers' Association, our Representative in Congress, and such others as the secretary may deem advisable.

"W. T. ELLIOTT, *Chairman*.

"WM. O. PARKER, *Secretary pro tempore*."

The President, in his veto message to House bill 11019, uses the following language:

If there ever was a schedule that needed consideration and investigation and elaborate explanation by experts before its amendment, it is Schedule K. There is a widespread belief that many rates in the present schedule are too high and are in excess of any needed protection for the woolgrower or manufacturer. I share this belief and have so stated in several public addresses. But I have no sufficient data upon which I can judge how Schedule K ought to be amended or how its rates ought to be reduced, in order that the new bill shall furnish the proper measure of protection and no more. Nor have I sources of information which satisfy me that the bill presented to me for signature will accomplish this result.

All of this being so, the bill should have been signed; and no plausible reason has been or can be given why it was not signed.

The Taylor System of Shop Management.

SPEECH

OF

HON. IRVIN S. PEPPER,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, August 21, 1911,

On the bill (H. R. 12812) to reduce the duties on manufactures of cotton.

Mr. PEPPER said:

Mr. SPEAKER: There is no more important matter before Congress at this time than the proposed investigation of the "Taylor system" and other systems of shop management. I realize that many Members are not familiar with the subject, but nevertheless it is one that deserves the attention of every thinking American citizen.

The resolution calling for this investigation was carefully considered by the Committee on Labor, hearings were had, and the matter was gone over in detail, with the result that the committee has unanimously recommended that the investigation be made.

We have heard a great deal in recent months about this so-called scientific system of shop management, and the sponsors for it have set forth its merits in magazine articles and in pamphlet form in such a way as to make it appear entirely harmless so far as the laboring man is concerned.

I am willing to concede that there are some things about the "Taylor system" that are commendable and workable, but that part of the system which undertakes to set a standard of labor energy by finding out what the best man can do in the least possible time is not a fair proposition to labor.

We do not have to go any further than Mr. Taylor's own statement of his plan in order to convict him of utter disregard of the ordinary consideration of human life, health, and happiness.

He seems utterly incapable of considering the man as a human being. He disregards his family, his home, and his health.

Mr. Taylor himself, in speaking of the tasks set, says:

Each man in the establishment, high or low, should daily have a clearly definite task made out before him. This task should not in the least degree be vague or indefinite, but should be accomplished carefully and completely and should not be easy to accomplish.

And, again, he says:

When the shop has reached an advanced state of organization in many cases a fifth element should be added, namely, the task should be made so difficult that it can only be accomplished by a first-class man.

Mr. Speaker, the Taylor system is essentially and primarily a high-speed system. It is a system which seeks to wring from the laborer every ounce of energy of which he is capable.

In my judgment, it can not be justified even from a manufacturing standpoint, and especially can it not be justified from a standpoint of the Government, which is now seeking to engraft the system in the arsenals of the United States.

The following is the testimony of Mr. John Golden, general president United Textile Workers of America, in regard to his observations of this so-called efficiency or scientific system:

The system of scientific management as applied to the workrooms is based upon securing the very largest amount of production in a given time, it being figured out for each machine what it should actually produce when speeded up to the limit. The price is then fixed upon this amount of production. Should the operator fall below the standard which has been set, a reduced price is paid, which is commonly known as the flat rate. For instance, take the weaving department. The flat rate of wages is set at $1.47 per day on four looms. If the weaver makes 251,400 picks per day, he (or she) receives $2.41; but should he fall below this number, he goes back to the flat rate of $1.47, or, in other words, should he make 250,400 picks per day, he losses his bonus and goes back to the flat rate of $1.47 per day.

I instructed Mrs. Conboy to visit a number of the women operatives at their homes, believing they would be inclined to give their opinion more freely to a woman, while I got in touch with a number of the men. We talked to about 50 people, representing the various departments in the mill. I withhold their names for obvious reasons, but have them recorded.

Without a single exception, we found the sentiment among the operatives interviewed to be very much against the system. When asked the reasons why, the replies would invariably be, in substance, as follows: "Yes; we get a little more money some days, not always; but we are pushed to the limit. The mental strain under which we work and our anxiety and fear that we shall fall below the standard makes the job scarcely worth while. We were far better off when we were paid for every yard of production we turned off; our overseers were more kindly disposed to us under the old system, as they are now working under the same nervous strain as we are, because they also are paid in accordance with the production of their help.

Thus we see some of the proofs of the system when it is in actual operation. We are told that Mr. Taylor received his first training and experience in the Midvale Steel Co., and, in fact, it is there he developed the system to its present state of perfection.

We may get an idea of the methods employed in that concern by quoting from the testimony of Mr. C. H. Harrah, president of the company, given before the Committee on Labor of the House of Representatives on Thursday, March 1, 1900, and printed in the hearings of that committee, pages 85 to 94. The committee at that time had under consideration the eight-hour bill. The following appears on page 72 of that report:

The CHAIRMAN. You stated a while ago, or I understood you to state, that when you worked them in eight-hour shifts each man worked the entire eight hours?

Mr. HARRAH. Yes; but we were experimenting then, and we had our inspectors watching the men very close, so as to see that there was absolutely no time lost. We had men with stop watches over the workmen working on an axle lathe, or whatever else it might be, and every time a man looked up they took his time; every time he stopped to breathe they took his time; and in that way they got absolutely the amount of time employed in doing a certain amount of work.

* * * * * * *

Mr. HARRAH. We have the most improved kind of machinery now, but we make it a rule to run a machine to break. For instance, the life of a hammer bar may be two years. If that hammer bar does not break inside of the two years I go for the forgemaster, because I know he is not getting the work he ought to out of the forge. It is the same way in the machine shop. If a lathe, the natural life of which might be two years, does not break down before that, I would go for the engineer in charge.

Mr. GRAHAM. Everything is run to its full capacity now?

Mr. HARRAH. Absolutely; yes, sir. We have absolutely no regard for machinery or for men.

Mr. GOMPERS. I think every member of the committee feels under obligation—I am sure I do, as one of the men interested in this investigation—for the gentleman's frankness as to his——

Mr. HARRAH. Will you tell me your name? My name is Harrah.

Mr. GOMPERS. My name is Gompers.

Mr. HARRAH. Mr. Gompers, when you become better acquainted with me you will know that there is nothing I hold back. I am like you; I am very anxious to have this thing settled. It means a great deal to me.

Mr. GOMPERS. So anxious am I to have it settled that I have associated myself with my fellow workers in order to see that it is settled. You say that in the event of these hammers and lathes not being

broken down much before the supposed limit of time they should last, you find fault with the men because they haven't got as much work out of the machines as they possibly could?

Mr. HARRAH. Yes, sir.

President Taft said in his recent address:

Good business is not everything in life; the making and accumulation of money should not be the chief end of a community. There has been danger in the past that the rush for wealth would injure the moral fiber of our people and degrade their ideals and standards.

No one, I believe, could have any complaint of a system which seeks to accomplish real efficiency. No one can object to the saving of energy; no one can make a fair objection to securing from labor a fair return for the wages paid; but any system which seeks to wring from labor an unjust tribute or which disregards the ordinary laws of health and hygiene is absolutely abhorrent to American citizenship and American ideals.

I think it is our duty to investigate this matter thoroughly, and the importance of action at this time consists in the fact that the Government is now installing it in the arsenals, and it would seem no more than right that the Congress of the United States, as representing the people of the United States, should inquire into its merits or demerits, and if legislation is necessary it should protect with a strong arm the laboring men of the land from those who would tear down the basic principles of human rights.

Dr. Charles Eliot, president emeritus of Harvard University, delivered a remarkable Fourth of July address in Faneuil Hall, Boston, this year. A portion of that address, as reported in the newspapers, is pertinent to the subject under discussion. He says:

A new Declaration of Independence would give vigorous expression to the popular conviction that the natural resources of the country, including the public health, are not to be sacrificed to secure immediate profits to a few individuals or corporations to-day. It would also recognize the direct functions of government in preventing evils and in promoting human welfare.

All action by government which clearly prevents industrial evils or promotes the bodily and mental welfare of industrial workers tends to increase industrial freedom. All action by government which tends to facilitate the voluntary division and redistribution of great properties, to prevent diseases and vices which cause most of the degrading poverty or are caused by it, * * * will improve industrial conditions and commend democracy to the confidence of the world.

I want this investigation to be made, and I want it to be complete, and I believe, with the honorable chairman of the Committee on Labor [Mr. WILSON] in charge, it will be complete. It will be thorough and comprehensive.

Conference Report on H. R. 2958, Publicity of Campaign Contributions.

SPEECH

OF

HON. HUBERT D. STEPHENS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, August 17, 1911,

On the conference report on the bill (H. R. 2958) to amend an act entitled "An act providing for publicity of contributions made for the purpose of influencing elections in which Representatives in Congress are elected."

Mr. STEPHENS of Mississippi said:

Mr. SPEAKER: I believe in fair elections, and one thing that will contribute to this end is publicity of campaign expenses. There can be no reasonable objection urged against publicity, but many and serious objections can be made to this bill.

The bill not only provides for publicity of campaign expenses at a general election, but also at "primary elections and nominating conventions."

Believing, as I do, in local self-government, in the sovereign power of the State, and in the Constitution—which has become in the minds of many, I fear, an instrument of little importance and to be disregarded at pleasure—I am unalterably opposed to this bill.

By what authority does Congress acquire jurisdiction to legislate with reference to "primary elections and nominating conventions"?

The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people.

The framers of the Constitution never heard of a "primary election." The only provisions of the Constitution with reference to election had direct reference to general elections.

There is a wide distinction between general and primary elections. A general election is one where candidates are voted for for a certain office and the successful candidate is entitled to the office to which he was elected. All qualified electors are entitled to vote at a general election.

Primary elections are merely creations of political parties. They are not elections in the sense in which the term "election" is used in the Constitution. In the real sense a candidate in a primary election, or before a nominating convention, is not a candidate for an office. If successful in the primary or before the convention, he acquires no right to the office. He is simply asking a political party to put the seal of its approval upon his candidacy and to permit him to go into the election as the choice of his party, and no one but members of that particular party can vote in the primary.

The States, not the Federal Government, have the right to regulate and control primary elections.

Able lawyers, men of wide experience and great learning, have spoken in favor of this bill, and not one of them has been able to show any constitutional warrant for the regulation of anything pertaining to primary elections. Their special attention was called to the proposition that the bill is unconstitutional, and there was not even an attempt to answer it.

As I now recall, there were only two arguments advanced in favor of the bill. First, that the people are demanding publicity of campaign expenses. This is granted, but I deny that the people demand that the Constitution be trampled upon in the manner proposed. All the needed, all the demanded, publicity can be provided for by the States, which have full power to regulate and control primary elections, and most of the States have made such provision. I trust that every State in the Union will speedily pass the most stringent laws on this subject.

The second argument in favor of the bill was that in some Southern States a nomination in the primary is equivalent to an election. That is true. But what of it? It does not change the Constitution; it does not enlarge its powers. The fact still remains that there is nothing in the Constitution that gives Congress, either directly or by implication, authority to interfere in any way with primary elections or with candidates in such elections.

Another objection that I have to the bill is this: It provides that—

No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided*, That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding $5,000 in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding $10,000 in any campaign for his nomination and election.

This makes an awkward situation, because of the fact in some States where limitation has been placed upon the amount a candidate can legitimately expend the limit is placed at $500, in other States at $600, in others at $750 and varying amounts. This bill provides that where the State has fixed a limit that there the candidate can not exceed that sum, but where the State fails to fix any sum that there the candidate may expend $5,000. So in some States a candidate may spend 10 times as much as a candidate in another State.

This is a general law applying to and affecting 46 States, yet the provisions of the law are not the same for all the States. In my judgment Congress has no power to enact general laws that do not apply to all the States in the same manner and with equal force.

In the section that says a candidate may spend the amount fixed by the laws of his State not in excess of $5,000 it is provided:

That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers) and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed.

Under this provision the legitimate expenses of a campaign are included in the amount allowed to be spent. Then what is the $5,000 for? Certainly it is not proper to use money for any purpose than those mentioned. I do not intend to suggest that persons favoring this provision want to fix it so that money can be put to an improper use, but simply say that it is another evidence that the whole matter has not been properly consid-

ered; that in the haste to cure certain evils many imperfections have crept into the bill.

I shall not call to mind the harrowing scenes that were inflicted upon the people of the South during the time when a Federal election law was in force; rather would I forget the misery, the infamy, the horror of that period. I shall not conjure up visions of like kind for the future. But I will suggest that this is a step, perhaps only a slight one, in the direction of complete Federal control of elections, which may be fraught with dire consequences. Whenever a breach is once made in the Constitution, whenever the rights of the States are infringed upon, it makes it easier to take another and longer step in the same direction.

Let us have the widest, the most complete publicity of campaign expenses; but let it be done by a law in each State regulating its own elections.

Shall the Government Control the Monopolies, or Shall the Monopolies Control the Government?

Having the absolute power to fix prices according to their own sweet will, where is the man who is credulous enough to believe that the monopolies of this country are not exacting unjust tribute from the public? But the special interests exclaim, "Leave us alone or you will hurt business"! A law authorizing the Government to control the monopolies would hurt crooked business, but it would help every honest man and every honest, competitive corporation in the United States. It would give equal justice to all in the commercial world. It would take away special privileges now being unjustly and criminally enjoyed by those amassing swollen fortunes without giving to the public an honest equivalent in return.

Under the present system of permitting the monopolies to exercise unrestrained special privilege the average citizen is barely able to buy with his earnings the meager necessities of life for himself and family. Such a condition in a country like this is a shame and a disgrace. Every man who works ought to be able to take a vacation in the mountains or at the seashore of at least 30 days each year. He should be able to educate his children. He should be able to lay by a little for his old age. That is what I call living.

I shall stick to the colors under which I have always fought, both as a lawyer and as a public officer. Upon those colors is inscribed the legend, "Loyalty to the public, eternal war upon dishonest greed." If my ship goes down I only hope that from its masthead those same colors, bearing that same legend, may still float in the breeze to mark my political grave.

I am not disheartened, but having unbounded confidence in the good judgment of my constituents, I believe that I shall triumph.

SPEECH

OF

HON. A. W. LAFFERTY,

OF OREGON,

IN THE HOUSE OF REPRESENTATIVES,

Monday, August 21, 1911,

On the bill (H. R. 12812) to reduce the duties on manufactures of cotton, and the Senate amendments thereto.

Mr. LAFFERTY said:

Mr. SPEAKER: I favor the passage of this bill, and I hope that I may be given leave to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Oregon asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. LAFFERTY. Mr. Speaker, April 29, 1911, I introduced in this House a bill to enlarge the jurisdiction of the Interstate Commerce Commission by giving to that body the power to fix reasonable rates, based upon physical valuations, to be charged by railroads, express companies, telegraph and telephone companies, and all other common carriers, in the transaction of interstate business, and also giving to said commission the power to fix reasonable prices to be charged by any person or corporation when found to be exercising an absolute monopoly in the interstate sale of any commodity.

When the Federal Government passes such a law, and when each State passes a similar law, to control monopolies doing business wholly within the States, then, and not until then, will the high cost of living be properly reduced in the United States.

REVISING TARIFF DOWNWARD ONLY A SHORT STEP IN RIGHT DIRECTION.

You may adopt absolute free trade to-morrow, and still this country will be in the clutches of the special interests that have acquired monopolies in their lines. Free trade would not hurt the monopolies. Free trade would give us but little relief from the present unreasonable high cost of living. Free trade would injure many honest, competitive manufacturers, farmers, and laborers, but it would not faze the trusts. The trusts, under free trade, would pursue the even tenor of their way, and they would continue to charge the public for their wares and services such prices as they see fit to charge, unless the Government shall step in and control the trusts. I am in favor of a radical revision of the tariff downward on all trust-made goods, but that alone will not give the public that full measure of relief to which it is so justly entitled.

FULFILLMENT OF PLATFORM PROMISES DEMANDED.

All parties have for some years declared in their platforms in favor of either regulating monopolies by law or breaking them up into small competitive companies by prosecutions under the Sherman antitrust law. The latter law makes it a misdemeanor to enter into any combination for the purpose of restraining trade or putting up prices to the consumer. But the law has been a failure. It is impossible, for illustration, to break up the Western Union Telegraph Co. into a number of small competitive companies, and it is likewise impossible to break up the transcontinental railroads and express companies into small competitive companies. Nor is it possible to bring about competition in the telephone business, street-railway business, electric-light business, or the business of many other public-service and public-utility corporations.

WHERE COMPETITION ENDS GOVERNMENT CONTROL OF PRICES BECOMES AN ABSOLUTE NECESSITY.

Since the prosecutions under the Sherman antitrust law have signally failed to restore competition in the two great cases recently decided by the Supreme Court, to wit, those against the Oil Trust and the Tobacco Trust, it is apparent to every thinking man and woman that Government control of prices is the only alternative. And the public is rightly demanding action, instead of promises, at the hands of Congress. The public is entitled to have laws passed that will protect it from the insatiable greed of the monopolies that now possess the absolute and unjust power to charge the American people as much as they please for their products and services, regardless of the cost of furnishing the same.

PUBLIC ONLY ASKS FAIR TREATMENT.

No man in this country wants any monopoly to give him anything or to sell him anything for less than what it is worth. The sneering argument is made by those enjoying special privilege that we who favor a law to control the prices of monopolies are seeking to take something away from the great corporations of the country simply because they are great. We ask for nothing of that kind. But we do object to having the public held up for prices that are out of all proportion to any reasonable or legitimate profit.

We do not object to a great monopoly making an annual profit of 8 or 10 per cent, or even a little more to cover the hazard of the business, but when it comes to paying them such prices as gives to them 40, 60, or 100 per cent profit annually the public has a right to object. Many monopolies are now paying profits of those amounts, when figured upon the actual physical valuations of their plants, as distinguished from their paper capitalization. The remedy is for the Government to find out how much money they actually have invested, and to then allow them such profits as will pay a reasonable return upon that investment, and no more. This, of course, is not necessary where there is honest competition between rival companies, but where one company, or combination of companies, has an absolute monopoly on a given commodity, it can sell to the public for just such price as it sees fit to fix, and the public is helpless. By issuing paper stocks to its owners far in excess of the real money actually invested the monopoly can make a public showing of only paying a reasonable return each year in profits. And this is the course that the monopolies are pursuing in deceiving the public.

A FEW WELL-KNOWN MONOPOLIES.

The conspicuous monopolies of this country are the railroads, the express companies, the telegraph companies, the telephone companies, the United States Steel Corporation, the International Harvester Co., the American Sugar Refining Co., the American Tobacco Co., and the Standard Oil Co. The 9 monopolies here named have no competition, and they sell their wares and services to the public for whatever prices they may arbitrarily fix. The public must either pay the prices so fixed or do without. They can not go to rival companies, and there attempt to make reasonable bargains, for there are no rival companies to go to.

UNJUST TRIBUTE BEING EXACTED FROM THE PUBLIC.

Having the absolute power to fix prices according to their own sweet will, where is the man who is credulous enough to believe

that the monopolies of this country are not exacting unjust tribute from the public? But the special interests exclaim, "Leave us alone, or you will hurt business!" A law authorizing the Government to control the monopolies would hurt crooked business, but it would help every honest man and every honest competitive corporation in the United States. It would give equal justice to all in the commercial world. It would take away special privileges now being unjustly and criminally enjoyed by those who are amassing swollen fortunes, without giving to the public an honest equivalent in return.

Under the present system of permitting the monopolies to exercise unrestrained special privilege the average citizen is barely able to buy with his earnings the meager necessities of life for himself and family. Such a condition in a country like this is a shame and a disgrace. Every man who works ought to be able to take a vacation in the mountains or at the seashore of at least 30 days each year. He should be able to educate his children. He should be able to lay by a little for his old age. That is what I call living.

DIRECT NOMINATIONS AND ELECTIONS MAKE PUBLIC OFFICERS INDEPENDENT.

The reason why the public has not already gotten the relief to which it is entitled is that the special interests have heretofore exercised a powerful and controlling influence in American politics. But that day is happily passing. The direct primary system of nominating all candidates for office has already been adopted in many States. Inside of two years more it will have been adopted in more than half the States. When a majority of the Representatives in this House shall be made accountable to the public alone for their nominations, as well as their elections, they will feel as free and independent to fight the special interests upon the floor of this House as I feel to-day. I am here without any strings on me and am free to do what I believe to be right and to say what I believe to be true. No public-service corporation enjoying a monopoly helped in the slightest degree to either nominate or elect me, and I am showing no ingratitude in trying to bring them to the bar of justice. To the public I am indebted for my nomination and election, and I shall serve the public so long as I remain a Member of this House.

WHERE THE "HIGH COST OF LIVING" COMES IN.

The corporate books of most monopolies will show that they are paying dividends amounting only to a reasonable rate of interest on the face value of their stock outstanding in the hands of their stock owners. But if their books show the payment of dividends amounting to 10 per cent per annum and they have issued stock to themselves for 10 times the amount of cash they have actually put into their plant, then they are really paying dividends of 100 per cent per annum.

A splendid illustration is the Western Union Telegraph Co. It is safe to say that it is capitalized for at least 10 times what it would cost to reproduce its plant. It is an absolute monopoly and has no competitor. Its rates are exorbitant. It is making at least 100 per cent profit per annum on its actual physical valuation.

Some time ago I was sending a message of 97 words from Portland, Oreg., to Washington, D. C. I asked the Western Union agent what it would cost. He said $7.09. I told him I wanted to send it at the Government rate, and asked him what it would cost at the rate the company charges the Government for its business. He looked in the book and replied, "At the rate we charge the Government, that message will cost you $1.17." The Western Union Co. well knows that if it would charge the Government anything like what it charges the public, that the Government would be forced to build lines from New York to San Francisco and from Washington to Portland and Seattle to carry the Government business, and it knows that such lines would pay for themselves in one year, carrying the Government business alone at the rates it charges the public. Of course, the company should give the Government a little better rate than it gives a private citizen, because the Government is a better customer, but to make a difference of $5.92 in one little telegram of 97 words is simply preposterous and almost unbelievable. The only possible explanation is that the Western Union Co. is playing a bold hand to prevent both Government competition and Government regulation of rates.

SENATORS AND CONGRESSMEN PAY NOTHING FOR SENDING MESSAGES ON OFFICIAL BUSINESS.

Each Senator and Congressman when he arrives in Washington is given a card from the telegraph company entitling him to send and receive messages on official business, and the company collects from the contingent funds of the Senate and House for such messages. Thereby the Senators and Representatives are relieved from the sting of the high telegraph rates that the public has to bear.

If the Senators and Representatives had to pay cash in advance for their messages to their constituents, and at regular rates, they would not rest so easy under the yoke of the Telegraph Trust. They would bestir themselves, and either authorize the Interstate Commerce Commission to fix reasonable rates, based on the physical valuations of the company, or they would provide for the building of Government telegraph lines, to be operated in connection with the Post Office Department. Of course, purely private messages must be paid for by Government officials, and my private telegraph bill for this month amounts to $386.50.

OVERCAPITALIZATION OF OTHER MONOPOLIES.

The Western Union Telegraph Co. is mentioned only as an illustration of the overcapitalized monopoly charging the public exorbitant rates. The same thing is true of the telephone companies and the express companies. The railroad companies are not quite so bad, but they are bad enough. The railroads of this country are capitalized for $17,000,000,000, while no disinterested person familiar with the subject has ever estimated their actual physical value at more than $8,000,000,000. Therefore, when a company purports to be paying 20 per cent profits, it is probably paying in reality over 40 per cent profits.

UNITED STATES STEEL CORPORATION.

The United States Steel Corporation went from a capitalization of $80,000,000, in 1901, to a capitalization of $500,000,000 without adding very much, if anything, in the way of assets to its plant. It is safe to say that this company is now capitalized for at least six times the actual amount of cash invested in its plant. Therefore, if it should now pay annual dividends of 6 per cent, it would in reality be paying profits of 36 per cent on the actual cash invested in the iron and steel business. Whenever the consumer buys a cook stove, a machine, or any article made up principally of iron or steel, he is paying unjust tribute to the Steel Trust. The same thing is true of the Sugar Trust, the Tobacco Trust, and the Oil Trust. Of course exact information as to the overcapitalization of these various monopolies will never be had until some Government tribunal is authorized to proceed in a judicial manner to ascertain the facts, after hearing all sides. But a monopoly is not like an ordinary competitive business corporation. A public monopoly is a public institution, and the public has a right to know what it is doing and to control it. Otherwise the public would be at the mercy of the monopoly. Either the Government must control the monopolies or the monopolies will control the Government.

LOCAL MONOPOLIES.

In every city and State there are local monopolies, such as street railway companies, electric light companies, gas companies, and telephone companies. Local public-service commissions should be established in each State to control local monopolies. Congress is given sole power by the Constitution to regulate interstate commerce, but local commerce must be locally controlled.

DISTRICT OF COLUMBIA FURNISHES EXAMPLES.

Right here in the District of Columbia we have examples of local monopolies charging excessive rates and furnishing insufficient service. The two street railway companies refuse to exchange transfers. They should be required to do so. During the rush hours they pack humanity into their cars like sardines. They are making probably 30 per cent per annum on the actual cash invested in their lines. They are taking off all open cars on the Avenue line and putting on the closed "pay-as-you-enter" cars instead. The health and comfort of the public is to be sacrificed to prevent the loss of a few fares to the street railway company. A public-service commission for the District of Columbia should not only be authorized to appraise the physical value of all public-service corporations doing business within the District, and to fix rates based thereon, but it should have the power to prescribe the character of service to be given to the public. Every other city in the United States should have a similar commission. When we give up the use of our streets to a monopoly we have a right to have a voice in the future management of that monopoly.

OTHER STATES FOLLOWING LEAD OF OREGON.

I believe that the public is about to come into its own, and that we are upon the dawn of the brightest and happiest period of our country's history. The publicity campaign bill which was passed by this Congress will do more than any law that has ever passed this House to curb the crooked work of the special interests in their attempts to corruptly influence

national legislation. Other States are rapidly following the lead of Oregon in adopting direct primary laws, laws for the direct election of Senators through pledges of the members of the legislature to support that candidate for Senator receiving the highest number of the people's votes, and laws to prevent corrupt practices at elections. The very moment that the several States elect governors and legislatures under such a system, and the Nation elects a President and a Senate and House of Representatives in like manner, the power of the special interests will be dethroned.

WHERE THE SPECIAL INTERESTS CAN NOT CONTROL THEY SEEK TO DESTROY.

When the special interests can not control a public officer they rejoice exceedingly if their hirelings can destroy him. They have their secret-service departments, and they hire their lobbyists, and say to them, "What we want is results." They do not care how the results are brought about. I have recently had a little experience along that line. I was given an opportunity to go on the pay roll of an alleged railroad corporation which, in my opinion, was in reality only a dummy for one that I am, and for years have been, fighting. I declined. The day before I was to deliver my speech of July 15 in this House the word was conveyed to me that a certain alleged scandal was going to be published in a Washington paper that very day at noon, which was the hour I was to deliver my speech advocating the enforcement of a land grant. The threatened article did not appear in the Washington paper that day, due, I think, to the good sense of its managing editor, but three weeks later the gang succeeded in getting it printed in an evening paper in Portland, Oreg., and from there they circulated it broadcast to the country. When they found that I could neither be bluffed nor put on anybody's pay roll they adroitly sprung upon the public their alleged scandal. They had nursed it for weeks and months, and all the ingenuity of the crafty and the unscrupulous was brought into play to give it color. They succeeded in shocking the public with their first audacious display of falsehood. They imagined that upon their first onslaught I would simply collapse. But they reckoned without their host. Men who are elected to Congress are not made out of collapsible material. I am not afraid of a malicious lie, no matter whether it be told to one person only or to the 92,000,000 people of the United States. Many newspapers throughout the country, naturally supposing that the alleged scandal was an item of news that had found its way into the channels of the press in the ordinary way, unwittingly used it and commented upon it as though it were true. They did not know that it had been carefully staged and placed before them by interested parties. They did not know that every part of the story that reflected upon me was a lie.

I shall stick to the colors under which I have always fought, both as a lawyer and as a public officer. Upon those colors is inscribed the legend, "Loyalty to the public; eternal war upon dishonest greed." If my ship goes down, I only hope that from its masthead those same colors, bearing that same legend, may still float in the breeze to mark my political grave.

I am not disheartened, but having unbounded confidence in the good judgment of my constituents, I believe that I shall triumph.

A FRIEND OF CAPITAL.

If those who now enjoy the profits from large blocks of industrial and public-service corporation stocks want their children and their grandchildren to enjoy that same opportunity they will see the wisdom and the necessity of placing all industrial and public-service corporations upon a basis that is fair to the public. Otherwise Government ownership will come as surely as one day follows another. For that reason I stated in my campaign speeches that those who advocated Government control, as I do, were in reality the best friends of the owners of such stocks, and I am glad to note that in the past few weeks several of the greatest captains of industry in the United States have come to see the matter just as I do.

JUDGE GARY'S TESTIMONY.

Nothing could be more instructive to the voters of this country than a careful perusal of the following testimony of Judge Elbert H. Gary, chairman of the United States Steel Corporation, given at Washington, D. C., June 8, 1911, before the Stanley congressional steel investigating committee. Judge Gary said:

Mr. GARY. It seems to me that so far as the Government has succeeded in regulating and controlling the conduct of railroads or other corporations engaged in interstate commerce, up to date, it has been a success. There has been adequate or at least reasonably adequate protection to the Government, representing the people at large, and to the individual or the corporation. All I care for, Judge, is to get out of this position of uncertainty, so that the business of this country may progress. It is delayed, it is hindered, at the present time. I believe that goes without saying, to some extent; and at the same time I think all of us ought to be in favor of laws which will prevent injustice on the part of the Government and on the part of the governed, and which will protect the interests of both. I believe that is good logic and good morals, and that is all I have attempted to suggest. You gentlemen having the greater responsibility, of course, I know will find it difficult to determine upon a law which you think may prove a satisfactory solution of the problems with which we are confronted. That is as far as I have gone.

Mr. BARTLETT. But you have not called attention to the distinction between the Government fixing the prices or creating a commission to regulate the prices of transportation over carrying railroads, interstate carriers, and corporations engaged in manufacturing or business interstate in its character. There is this difference between them—that the railroads get their right to charge anything at all from charters granted by the various States; and in the granting of those charters and in the building of the roads they are granted a part of the sovereignty of the State, the right to exercise the power of eminent domain, by reason of the fact that the Government undertakes to control or regulate the prices of the carriers; because when they do that they become quasi public highways.

Mr. GARY. I know there is a distinction.

Mr. BARTLETT. And that is the great distinction between them—as to the fixing of prices, I mean.

Mr. GARY. Yes; there is a distinction between a quasi public institution like a railroad and a private corporation, strictly speaking. But I am not at all certain in my mind that when it comes to interstate commerce the Government has not the right to reach out and control it. If not, it seems to me it certainly would in case of even a license, and much more so in case of Federal incorporation. That is, when the corporation once submits in that way to the jurisdiction of the Government, I believe the Government would have the right to control it. That is all you need, if you can get enforced publicity and governmental control.

Mr. BARTLETT. Do you mean governmental control or governmental regulation?

Mr. GARY. I use the word "control" preferably, and I would distinguish that from Government management. I do not believe Government management of the ordinary business of a corporation is practical.

Mr. BARTLETT. It has been demonstrated to be a failure in Australia and in New Zealand in the last few years, has it not?

Mr. GARY. I think it has been demonstrated; yes. What we all need is something that is practical, something that is legal, something that affords protection to all interests, and that I am in favor of, because I think it is right and because we need it—because it is good policy.

Mr. BARTLETT. One more question and I will quit. Do you not believe that this power, if the Government exercises or intends to or has attempted to exercise it and does exercise it, to control and regulate the corporations in doing interstate business is nothing more than an assertion of the old common-law doctrine that you must so use your own property as not to injure others or the public? That is about all there is in it, is it not?

Mr. GARY. Perhaps it is. That is good doctrine.

Mr. BARTLETT. It does not take a Government bureau or a Government agency here to enforce that ancient and well-accepted doctrine of law which we have inherited from our forefathers across the water.

Mr. GARY. I am afraid, in view of the existing laws, that it does require something to put the manager of large interests in a position where he is not groping in uncertainty. Judge Bartlett, constructive legislation in this country is needed if we are to retain our position in the ranks of competing nations who are trying to make progress, and who are making progress. I firmly believe that.

Mr. BARTLETT. If you gentlemen who engage in these large business enterprises add the weight of your influence or suggestions to Government control, Government regulation, or Government license, which must eventually lead to Government management or ownership, we are not very far, if that be accomplished, from leaving our present form of government and getting very close to the domain of socialism, are we?

Mr. GARY. I can not quite agree with that. It does not seem to me so, Judge Bartlett. I should be sorry if that were true—if that is the logical sequence.

Mr. BARTLETT. That idea has been very largely advanced, if the returns of the elections of the last eight years are any indication of it; and I think it would be very unfortunate if gentlemen of the intelligence and standing and wealth that you represent join your influence toward the attainment of that end—unfortunate for our form of government, and, I think, eventually for our people.

Mr. GARY. From our standpoint, our disposition is to submit to the decisions of those who are in authority and who are wiser than we are. But you take the case which I presented here under the Sherman law—monopoly on one side and restraint of trade on the other; I should like to know from Judge Bartlett what position we could possibly take except the one which we have taken, of avoiding the semblance of making any agreement, and yet at the same time trying to prevent utter demoralization and destructive competition such as used to prevail.

Mr. BARTLETT. The law is said to be the perfection of human reason; and I think probably the courts recently have demonstrated that in disposing of every matter you must apply the doctrine that the law is the perfection of reason, and every case must stand or fall upon its own facts.

Mr. GARY. If that were true, you would not, perhaps, be amending the laws all the time.

Mr. BARTLETT. I am speaking about the particular law you have reference to now. That is all I wish to ask.

Mr. BEALL. As I understand you, Judge, your idea is that the old era of competition has about ended?

Mr. GARY. I think the old era of destructive competition ought to be ended.

Mr. BEALL. And in order to avoid the dangers of combinations or unlawful restraints of trade, you believe that there should be designed some governmental agency whose partial function should be the fixing of prices?

Mr. BARTLETT. Subject to review.

Mr. BEALL. Subject to review by the courts?

Mr. GARY. Yes; in some way I think that ought to be brought about.

Mr. BEALL. Of course, if such an agency as that should be established, fixing the price, you would expect it to fix such a price as would afford reasonable, fair compensation to those who have invested money in these organizations?

Mr. GARY. Fair and reasonable returns.

Mr. BEALL. Yes. Would not that involve some supervision by the Government of the organization of these concerns?

Mr. GARY. Quite likely it would.

Mr. BEALL. And some regard for their capitalization, and whether or not they were overcapitalized?

Mr. GARY. It would, or else the returns to be allowed should be on the real values of the properties rather than upon the capitalization.

STATEMENT OF MR. GEORGE W. PERKINS.

On August 7, 1911, Mr. George W. Perkins, who is one of the directors of the International Harvester Co., which is now selling harvesters and implements to the farmers for just such prices as it sees fit to charge, delivered an address before the Michigan Colleges of Mines. Mr. Perkins is also one of the directors of the United States Steel Corporation. Following the lead of Judge Gary, Mr. Perkins also came out vigorously for Government control of monopolies. He said:

Our National Government first undertook the supervision of our States; then it undertook the supervision of our banks; then it undertook the supervision of our railroads. Why not at least try to undertake the supervision of our big business concerns before we smash them to pieces? "Why not try to regulate before we strangulate?"

HEAD OF TELEPHONE AND TELEGRAPH MONOPOLY ALSO GETS INTO LINE.

Mr. Theodore N. Vail, of Boston, is the head of the telephone and telegraph monopoly of this country and Canada. He is president of the Western Union Telegraph Co. He is president of the American Telephone & Telegraph Co., which owns a majority of the stock in the Western Union Telegraph Co. and also a majority of the stock in all of the Bell telephone companies of the United States and Canada. It also owns the Western Electric Co., which controls the manufacture and sale of all Bell telephone instruments and supplies. Mr. Vail appears in Moody's Manual, a recognized directory of public-service and industrial corporations, as a director in the Pacific States Telephone Co., which furnishes us our telephone service in Portland, Oreg. He likewise appears as a director of the Chesapeake & Potomac Telephone Co. which furnishes us our telephone service in Washington, D. C. He has the telephone and telegraph business of the United States and Canada in the palm of his hand, and at the present time can charge such prices as his conscience will allow. In my Portland law offices I have one trunk line telephone and five extensions. The service costs me $216 a year. Other people throughout the country pay in proportion. If these rates only give to the Telephone Trust a reasonable profit, I can state that, so far as I am concerned, I want to keep on paying the present rates. I believe every other citizen feels the same way. But if the service only costs the company one-half the amount we are paying, the rates should be materially reduced. They will never be so reduced till we get Government control of rates based on physical valuations. Mr. Vail's name appears on the cards mentioned earlier in my speech, which are given to each Senator and Representative, under which the latter send and receive telegraphic messages on public business to be paid for out of the contingent funds of the Senate and House.

That Mr. Vail is now willing to concede that Government control is right and proper is shown by the annual report of the American Telephone & Telegraph Co. for 1911. In that report, at page 32, Mr. Vail says:

PUBLIC CONTROL.

Public control or regulation of public-service corporations by permanent commissions has come and come to stay. Control or regulation exercised through such a body has many advantages over that exercised through regular legislative bodies or committees. The permanent commission will be a quasi judicial body. It should be made up of members whose duty it will be, and who will have the desire, the time, and the opportunity, to familiarize themselves with the questions coming before them. It should act only after thorough investigation and be governed by the equities of each case. It would in time establish a course of practice and precedent for the guidance of all concerned.

INTERSTATE COMMERCE COMMISSION HOLDS SAME VIEWS.

The last annual report of the United States Interstate Commerce Commission goes to the extent of recommending the immediate physical valuation of railroad companies, with a view to fixing reasonable rates based thereon. There is no reason why other public-service corporations should not be physically appraised in like manner and for the same purpose. In its last report the Interstate Commerce Commission said:

VALUATION OF RAILWAY PROPERTY.

Previous reports have made frequent reference to the need of adequate provision for the valuation of railway property, and the experience of the commission during the past year serves only to emphasize such arguments as have been submitted. In the Twenty-second Annual Report of the commission to Congress will be found an argument in support of railway valuation, which rests on the present unsatisfactory condition of railway balance sheets. It may not be inappropriate to repeat that argument.

"The balance sheet is, perhaps, the most important of the statements that may be drawn from the accounts of corporations, for, if correctly drawn, it contains not only a classified statement of corporate assets and corporate liabilities, but it provides in the balance—that is to say, the 'profit and loss'—a quick and trustworthy measure of the success that has attended the operation and management of the property. Every balance sheet begins with 'cost of property,' against which is set a figure which purports to stand for the investment. This is no place to enter upon an extended criticism of the practice of American railways in the matter of their property accounts, nor is such a criticism necessary for the purpose in hand. It is sufficient to refer to the well-known fact that no court or commission or accountant or financial writer would for a moment consider that the present balance-sheet statement purporting to give the 'cost of property' suggests, even in a remote degree, a reliable measure either of money invested or of present value. Thus, at the first touch of critical analysis, the balance sheets published by American railways are found to be inadequate. They are incapable of rendering the service which may rightly be demanded of them. One cure seems possible for such a situation, and one only, and that is for the Government to make an authoritative valuation of railway property, and to provide that the amounts so determined should be entered upon the books of the carriers as the accepted measure of capital assets. Under no other conditions can the commission complete in a satisfactory manner the formulation of a standard system of accounts."

UP TO CONGRESS TO ACT.

Having all this testimony before it, there remains no excuse for failure upon the part of Congress to take action for the relief of the public. For that reason I have introduced the following bill, and I shall use every effort to secure its passage during the two years for which I have been elected to serve in this body:

A bill (H. R. 8092) to enlarge the jurisdiction of the Interstate Commerce Commission by giving to that body the power to fix reasonable rates, based upon physical valuations, to be charged by railroad, express, telegraph, and telephone companies, and all other common carriers, in the transaction of interstate business, and also giving to said commission the power to fix reasonable prices to be charged by persons or corporations when found to be exercising a monopoly in the interstate sale of any commodity.

Be it enacted, etc., That the Interstate Commerce Commission, created by an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, is hereby authorized, empowered, and directed to investigate, ascertain, and appraise the fair and reasonable value of the property of all railroad, express, telegraph, and telephone companies, and all other common carriers, engaged in the transaction of interstate business within the United States, or business between any State or Territory of the United States and any foreign country, and to fix and promulgate reasonable rates to be charged by such common carriers in the performance of such service, based upon such appraisements.

SEC. 2. That the term "common carriers" as used in this act shall include railroad, express, telegraph, and telephone companies, and all other persons, companies, and corporations included in section 1 of the act entitled "An act to regulate commerce," approved February 4, 1887, as amended.

SEC. 3. That said Interstate Commerce Commission is further authorized, empowered, and directed, whenever it shall have cause to believe that any person, company, corporation, or association is exercising a monopoly in the interstate sale of any commodity, to investigate and ascertain the facts, and if it shall be found that any such person, company, corporation, or association is exercising such monopoly, said commission shall issue a schedule of prices, based upon the fair and reasonable valuation of such commodity, which shall thereafter govern in the interstate sale of such commodity.

SEC. 4. That said Interstate Commerce Commission is hereby authorized and directed to issue such rules and regulations as may be necessary for the purpose of carrying this act into effect.

SEC. 5. That any person, company, corporation, or association violating any rule or regulation, or willfully disregarding any schedule of rates or prices lawfully made and promulgated by said Interstate Commerce Commission under the provisions of this act, shall, upon conviction thereof, be punished by a fine of not less than $100 nor more than $5,000 for each separate offense, or by imprisonment of not more than one year, or by both such fine and imprisonment, in the discretion of the court.

SEC. 6. That said Interstate Commerce Commission shall not finally determine any appraisement, or fix any rates, or adjudge any person, company, corporation, or association to be exercising a monopoly in the interstate sale of any commodity, or promulgate any schedules of prices to be charged for any commodity under the provisions of this act until all parties interested have been given due notice and an opportunity to be heard.

SEC. 7. That appeals shall lie from all final decisions of the Interstate Commerce Commission rendered under the provisions of this act to the United States Commerce Court, created by the act approved June 18, 1910, and from the final judgments and decrees of said court to the Supreme Court of the United States.

SEC. 8. That for the purpose of making the investigations herein provided for said Interstate Commerce Commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony.

SEC. 9. That schedules of rates and prices fixed by said Interstate Commerce Commission under the provisions of this act may be changed from time to time by said commission to conform to changed valuations, either upon its own motion or upon the application of any party or parties interested: *Provided*, That due notice and an opportunity to be heard shall always be given to the party or parties interested.

SEC. 10. That all final appraisements made by said Interstate Commerce Commission under the provisions of this act shall be accepted as prima facie evidence that such valuations are correct, and all schedules of rates and prices fixed by said commission under the provisions of this act shall be taken as prima facie evidence of the reasonableness of such rates and prices, and the burden of proof shall rest upon the party or parties complaining of the correctness of such valuations or the reasonableness of such rates or prices to show the contrary in any proceeding brought or maintained for that purpose.

Congressional Apportionment Bill.

SPEECH

OF

HON. JOHN H. SMALL,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 27, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration the bill (H. R. 2983) for the apportionment of Representatives in Congress among the several States in the Thirteenth Census—

Mr. SMALL said:

Mr. CHAIRMAN: Before discussing the size of the membership under this new apportionment, it may be well to recur briefly to a summary of some of the methods that have been heretofore adopted in making apportionments. It may be said it has been confined to three methods. In any one of these methods it is first necessary to obtain a ratio of representation which shall be the unit of membership in the several States. This ratio having been obtained, it is divided into the population of the several States. One, and the first method which was followed, was to adopt the quotient as whole numbers, and give this quotient represented in whole numbers as the number of Representatives from the respective States.

Another method was that adopted first under the Sixth Census, of 1840, by which the ratio was divided into the aggregate representative population of the several States and the quotient thus obtained from each State added together would make less than the arbitrary number of Representatives which had been agreed upon, by reason of the loss of fractions. Now, there was added to this one Representative for the State having the highest major fraction greater than a moiety, and one additional Represetnative for each other State having a major fraction. That, as I said, was the method first adopted in 1843 under the apportionment of the Sixth Census, and is known as the method of major fractions.

The other method, and the third one, as I understand, was first adopted under the Seventh Census, of 1850, by which, after having divided the ratio into the total representative population of each State, and having added the whole numbers which were thereby obtained as the quotients as such divisor in all the States, and having fixed prior thereto arbitrarily the number of Representatives which should constitute the membership under the new apportionment, there was added to the aggregate of those whole-number quotients a sufficient number of major fractions, taking first that State having the highest major fraction, and then on down until you secured enough major fractions to make up the total number of Representatives under the proposed apportionment.

Now, this bill is framed under the method of 1840, or the method of major fractions. It was not determined under this method arbitrarily to fix the House at 433, because mathematically the result could not be obtained. But an arbitrary number was fixed upon to divide into the total population of the United States—that is to say, the representative population—and the quotient represented the ratio; and dividing that ratio into the population of the several States and obtaining the whole number of quotients there has been added thereto one for every State having a major fraction. The result of that mathematical calculation makes 433, the membership reported by the committee in this bill. This method, Mr. Chairman, of all the methods which have been heretofore adopted, is the fairest, because the giving to each State having a major fraction an additional Representative on account of that fraction comes nearer what was intended to be an equitable distribution of Representatives among the several States.

There was, however, before the committee Dr. Joseph A. Hill, one of the chief statisticians of the Census Bureau, who submitted what he thinks is a fairer method, and which, as I recall, he termed the method of ratios.

Mr. LANGLEY. Alternate ratios.

Mr. SMALL. Alternate ratios. I shall not take the time to attempt to make any explanation of his method, even if it were possible; but the committee thought it wise to attach to their report, in order that it might be permanently preserved, this method submitted by Dr. Hill, in order that it might be considered in any future apportionment.

And while upon this subject, Mr. Chairman, it is, at least, my individual opinion that in order to bring some order out of the chaos which has heretofore existed as to the methods of apportionment under each decennial census it would be wise to appoint a commission, if one could be obtained, to serve without compensation, in order that they might examine into this question and report to this Congress at some future session the result of their deliberations, and possibly they might evolve a plan which would come nearer to a solution of that which is desired—an equitable distribution of representation—than any method which has been heretofore applied.

Mr. Chairman, the debate so far seems largely to have turned upon the question of the size of the House—of the numerical membership of the House. So far as I am concerned, my individual opinion is that this being the only popular legislative body representing the people of the United States, it ought to be kept as near to the people as possible. I believe that you can only keep the individual Members, and therefore the aggregate of this House of Representatives, near to the people by having a reasonably small ratio of population to each Representative, because thereby each individual Member of the House will be nearer to the people, will be more responsive to public sentiment among his constituents, and will be more conscientious and diligent in representing them in this popular branch of Congress; and that there ought to be only one limitation upon that proposition, and that is that we shall not have a body so large as to be unwieldy or as to thwart the purposes of a reasonably efficient legislative body.

That, to my mind, is the only limitation which should be placed upon the membership. So far as my individual opinion goes, I take no stock in the proposition that we can have more efficient legislation in a smaller body. [Applause.]

We who have been here and have witnessed the responsiveness of this House to an enlightened and intelligent public sentiment, and have had an opportunity to make comparisons with another legislative body, much smaller in membership, know that in responsiveness to the popular will, in the discharge of all the duties of a legislature that is representative of the people, if it were not invidious to make comparisons, this House has made a record as the representatives of their districts and in the aggregate of the people of the country which entitles it to greater distinction than has ever been achieved by the body sitting at the other end of the Capitol.

The gentleman from Kentucky [Mr. SHERLEY] in propounding his question to the gentleman from Wisconsin [Mr. NELSON] shattered the argument which the gentleman from Wisconsin was attempting to make reflecting upon the economic policy of this side of the House when he asked the question, If, in economy of expenditures, if, in all legislation that involved the expenditure of the people's money, this House was not the one which exercised wise and, when necessary, rigid economy; and, on the other hand, whenever extravagance was indicated, that it was not in this House, but in another place? I am particularly surprised, Mr. Chairman, that a gentleman from the State of Wisconsin, which is reputed to be progressive, which is said to be making steady advances in what is now known as popular government, should stand here and make an argument for reduced representation in this the only popular branch of the legislative department of the National Government. It seems to me that any man who stands for augmenting the rights of the individual voter, and thereby increasing the responsibility and power of the electorate, can not consistently ask for a reduced representation in the only popular branch of Congress.

Mr. Chairman, I do not quite agree with the distinguished chairman of our committee [Mr. HOUSTON], and I did not literally accept his statement to the effect that the controlling reason for increasing the membership from 391 to 433 was to prevent the representation of any State being reduced. That was simply one of the factors—strong it may be, and yet not controlling at this time, and one which in any future apportionment will not be controlling.

Mr. SHERLEY. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Kentucky?

Mr. SMALL. Yes.

Mr. SHERLEY. Is there any lesser number than the one arrived at by the committee that would have prevented the reduction of some State's representation?

Mr. SMALL. There is not, under the method adopted.

Mr. SHERLEY. Is it not rather persuasive, then, that in arriving at this particular number, which is the lowest possible number in order to retain the States' present representation, this is the controlling motive? [Laughter.]

Mr. SMALL. It is one of the persuasive factors, but not the only one. [Applause.] There are a number which induced the committee to increase the membership of the House to 433.

Mr. SHERLEY. Will the gentleman permit another inquiry?

Mr. SMALL. Certainly.

Mr. SHERLEY. If there be a reason for the increase other than the desire to keep the States with their present representation, why do you stop at this particular number? Why do you not go on? Why do you stop at that number, and that number only, that would give you the present representation in the States? [Applause.]

Mr. SMALL. Well, the distinguished gentleman knows that if we had gone above 433 and gradually reduced the ratio we would have added representation to one or more States. If we had reduced it a little more, we would have added representation to other States, and then there would have been a demand from other States to reduce the ratio just a little more and give them additional Representatives. I want to be perfectly frank, in answer to the gentleman, and say that that was one of the reasons, and I take it, Mr. Chairman, that it is a reason not without force. When you have one of the sovereign States of the Union, having in this Congress a certain number of Representatives——

Mr. AUSTIN. Take Kentucky, for instance.

Mr. SMALL. Take Kentucky, for instance, and it is entitled to a certain number—we will say 10——

Mr. SHERLEY. Eleven.

Mr. SMALL. Eleven; and under the proposed apportionment it would be decreased from 11 to 10, and that decrease was brought about by reason of the more rapid increase of population in other sections and other States; I say it is a matter for serious consideration by the electorate of the people of that State whose representation is sought to be reduced, and that it is not only perfectly natural, but that they have a right to come to this House and ask if it is possible, in making the new apportionment, to fix such a number as not to interfere with effective legislation, and at the same time not reduce the representation from any State.

Mr. SHERLEY. Will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Kentucky?

Mr. SMALL. Certainly.

Mr. SHERLEY. The gentleman, as the result of a suggestion, has taken my State as an illustration. Let us carry the suggestion a little further. Would not the natural desire of a State not to have the number of its Representatives decreased be so strong as to compel its Representatives to stand for a number that would not decrease it, without regard to the effect it might have on the efficiency of the entire increase in number? And is not that the vice of the whole proposition that comes up every 10 years? [Applause.]

Mr. SMALL. That is not the only problem which is presented to Members of this House, in which they have to exercise their conscience and their judgment. I prefer not to believe that any Member of this House, by reason of any reduction or increase of representation in his State, or by reason of any other benefit which can come to his district or his State, would purposely act or vote in such a way as to bring injury or disaster to the people of the whole country. That is simply one of many problems presented to Representatives here, and there are in this House, and there always will be in the future, men who are brave and courageous enough to do that which is right, even though for the moment it does not square with public opinion among their constituencies. So I think, Mr. Chairman, that this House, and every future House, as I wish to say in a moment with reference to the amendment to be offered by the gentleman from Indiana [Mr. CRUMPACKER], can be trusted to take care of the question of the apportionment at this time or under any future decennial census.

Mr. Chairman, our Government differs from others, and yet the fact that in other governments, not republics, the popular branch of their legislative assembly is larger, and based upon a smaller ratio than this, is at least an argument.

Mr. TRIBBLE. Will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Georgia?

Mr. SMALL. I do.

Mr. TRIBBLE. I will ask you if these foreign countries that you name—Italy, France, and so forth—have 46 States, each having a State legislature composed of anywhere from 100 to 200 members to legislate for them?

Mr. SMALL. They have not; and that is a most pertinent and useful inquiry.

Mr. LEWIS. Germany has States with legislative bodies very similar to our own.

Mr. SMALL. I will refer to Germany in a moment. In Germany, under the census of 1905, they have 397 members in the lower house; it is true not so many as we propose under this apportionment, and yet the representation in Germany is based upon a ratio of 155,000, while our present apportionment is based upon a ratio of 211,887.

Mr. AUSTIN. I will ask the gentleman to give us the total population of Germany and these other countries as he makes the comparison.

Mr. SMALL. The population of Germany is 60,000,000 as compared with 91,000,000 in the United States.

Mr. TRIBBLE. May I ask the gentleman another question? Does the gentleman contend that the population of these countries has anything to do with this question, bearing in mind the fact that they do not have State legislatures similar to ours? Suppose you brought together in this National Congress the members of all the State legislatures in this country, how many would you have?

Mr. AUSTIN. About 6,000.

Mr. SMALL. Yes; I think about 6,000.

Mr. TRIBBLE. Does the gentleman think it is fair for him to compare foreign countries with this country when he admits that the United States has 46 legislative bodies?

Mr. SMALL. I will answer the gentleman in a minute. In France the population is 39,000,000. They have in their popular assembly a membership of 584, based on a ratio of 67,212. In the United Kingdom of Great Britain the number of members in the lower house is 670, based on a population of 41,000,000 and a ratio of 61,878.

Now, Mr. Chairman, I said that the policy adopted in these countries was not altogether applicable to the United States, but I said it was in part. Now I will answer the inquiry of the gentleman from Georgia. It is true that in the popular branches of the legislative assemblies in those countries that they have more to do with the local legislation than has the Congress of the United States, and yet, as against that, I put the proposition that in legislation, that in the imposition of duties by law upon the executive departments of our Government, not only have the functions of Congress been enlarged, not only have the duties prescribed for the executive departments been greatly augmented, but there is a tendency year by year as we progress commercially, industrially, and socially, to increase the duties of those departments.

In addition to that, while we have 46 and will soon have 48 States, each having a legislature having jurisdiction of all local matters, there is still left to Congress within its province legislation of an important character, and in the performance of our duties here as legislators for all the 46, and soon to be 48, States of the Union we should have Representatives who are near to the people, and this result can only be accomplished by making the ratio of representation reasonably small.

Mr. TRIBBLE. Will the gentleman yield?

Mr. SMALL. I will yield to the gentleman.

Mr. TRIBBLE. If you increase the representation of this House is it not true that the committees will have more authority, and that they will control the lawmaking power more than they do now; that the House as a whole will have less to do in making the laws than it has now?

Mr. KENDALL. Mr. Chairman, if the gentleman from North Carolina will allow me, is not the tendency in the House now to deprive committees of that power and to restore the power to the House itself? And is not that the effect of the amendment adopted at the last session providing that the House could recall legislation from the committees if it desired to do so, if the committee had suppressed it?

Mr. SMALL. I thank the gentleman for the suggestion. There is no legislative body, even one with a much smaller membership than this, where the detailed work of investigation must not be made by the committees, but they are required to report their action to the body in the aggregate. While that is true in this House, and will be true of the House with a membership of 433, at the same time it would be almost equally true of a House with a greatly reduced membership.

In connection with the suggestion just made by the gentleman from Iowa [Mr. KENDALL], he reminds us that we have reformed in this House to the extent of restoring the control of the committees to the House. Now, whether it shall be 433 Members, or whether in the future there shall be even a larger membership, can well be trusted at the proper time to the House to assert its supremacy and retain the final control of all legislation, as it ought to have.

Mr. SHERLEY. Will the gentleman yield?

Mr. SMALL. Certainly.

Mr. SHERLEY. Is it not true that the House asserted its power to discharge committees because so much power had been given to committees that practically the committees were legislating in place of the House?

Mr. SMALL. That condition existed by sufferance of the House alone.

Mr. KENDALL. It might have existed if the House consisted of a much smaller number.

Mr. SHERLEY. But the facts do not bear that statement out. There has been a growth of committee power along with and existing at the same time with the growth in membership, and the early history of the Congress will bear that out.

Mr. SMALL. Mr. Chairman, I submit that the character of this House, both in patriotism and in disinterested public service, in efficiency of legislation, must depend, after all, upon the individual character and the equipment and attainments of the Members, and I am very sure that the efficiency and equipment of a Member will most surely be maintained by keeping him close to the people, his constituency which he represents, and that can only be accomplished by increasing to a reasonable degree the number of Representatives to conform to the growth in population.

I will ask the gentleman from Tennessee to yield me more time.

Mr. HOUSTON. Mr. Chairman, I yield the gentleman five minutes more time.

Mr. SMALL. Mr. Chairman, I desire to advert now——

Mr. AUSTIN. Mr. Chairman, before the gentleman begins I would like to ask him a question, and that is, If the committees of this House have any more power in the way of legislation or the shaping or controlling of legislation than the committees of another body, where the total membership does not exceed 100?

Mr. SMALL. My observation confirms that of the gentleman.

Mr. SIMS. It is more ironclad over there than here, by committees.

Mr. TRIBBLE. Is it not true that the States can go on and redistrict under the present apportionment of 391, under the new census, just as well as they can under this bill?

Mr. SMALL. Of course that rests with the States. I take it that the only power Congress has is to fix the number of Representatives, and it is within the power of the States to redistrict as they desire.

I desire to say a few words now regarding the amendment of the gentleman from Indiana [Mr. CRUMPACKER], which he proposes to offer to this bill. His amendment will apply to section 3 of this bill (H. R. 27), and, instead of reading the amendment, I think I can abbreviate in an intelligent way the change proposed. It provides that after the next decennial census the Secretary of Commerce and Labor shall take the aggregate of Representative population and divide it by 430, and that the quotient thus obtained shall be the ratio and shall be divided into the population of the several States; that the quotients which are thus obtained in each State, taking the whole numbers and discarding the fractions, shall be added together. The aggregate will be less than 430, because some of the States will have lost by the fractions. There shall be added one additional Representative to each State which has a major fraction, so that the total number of Representatives might be 433 or it might be 440 or 445, dependent upon the number of major fractions. Now, if we are to have a method proposed for the future, I have no criticism whatever to make of the method offered by the distinguished gentleman from Indiana. I think that the methods which have been adopted are the wisest which we could adopt. The objection which I make is that it is an attempt to usurp what I believe is the function of the contemporary Congress which may be here after each decennial census. As I said, I believe the number in this body ought to be sufficiently large to keep it near to the people, and that the only limit upon its size ought to be the wisdom of the contemporary body, both in the Senate and the House, here at the time, to see to it that we do not have so large a body as to be too unwieldy, and, subject only to that limitation, I believe it ought to be left to each contemporary Congress here after each decennial census to make that apportionment.

The gentleman from Tennessee [Mr. HOUSTON], the chairman of this committee, correctly stated that there had been one and only one attempt in the past to provide a self-executing law for a subsequent decennial census, and that was under the act of 1850. There it was fixed at 233, and then by a subsequent act in 1853 it was increased to 234. Then after the next decennial census of 1860 the Secretary of the Interior, who was required to make the mathematical calculation, reported to Congress the apportionment under the law which had been enacted, but Congress did not abide by that self-executing law which had been carried into effect by the Secretary of the Interior; but because some of the States were deprived of representation on account of their having major fractions, they added eight more, making a total number of Representatives under the apportionment of 1860 of 241. So that the only opportunity Congress has had to observe a law of the character which is proposed by the amendment to be offered by the gentleman from Indiana was not observed by the subsequent Congress and will not be observed in the future, and would be a usurpation of the powers of the Congress 10 years from now under the next decennial census. [Applause.]

* * * * * * *

Mr. SMALL and Mr. SIMS rose.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. SMALL. Mr. Chairman, I move to strike out the last word. The amendment which has been offered by the gentleman from Kentucky [Mr. SHERLEY] is the same amendment that the gentleman from Indiana [Mr. CRUMPACKER] gave notice he would offer. I compared it at the time it was being read, and I think it is a literal copy.

This amendment was considered by the Committee on the Census, which reported this bill, and, if I may make a statement without violating the rule, I may say that by a very large majority, regardless of party affiliation, the committee decided to omit this section from the bill as reported. Now, Mr. Chairman, just a word about the amendment. I think the gentleman from Virginia [Mr. SAUNDERS] made a correct characterization when he said that this was an impotent attempt to usurp the functions of a Congress 10 years in the future. It is an attempt upon the part of this Congress to protect itself 10 years ahead. An attempt has been made by some gentlemen to argue that while this is not binding upon a subsequent Congress that is similar to other legislation which a subsequent Congress might repeal. That is an unfair analysis.

Mr. CRUMPACKER. Will the gentleman yield for a question?

Mr. SMALL. Certainly.

Mr. CRUMPACKER. Is not this the identical provision that was in the bill passed by the House of Representatives two months ago, and did not it receive the support of every Member in the House except three, including the gentleman himself, not two months ago?

Mr. SMALL. Mr. Chairman, it is my recollection, and the RECORD will also verify the statement, that there was scarcely if any debate upon this amendment. Whatever was in the mind of the House at that time I do not know; but now that it has been studied by the committee and debated in the House, now that the House does understand it, I think the gentleman will find that there is a very considerable division of sentiment about it. Now, I say in regard to this amendment that this legislation differs from other legislation in that the majority of legislation which seeks to provide for the future provides for conditions which are similar to those which exist at the present time, but every decennial census reveals a different condition and may reveal a totally different condition.

This amendment authorizes the Secretary of Commerce and Labor automatically, without any intervening action of the House, after the census of population has been completed and reported to him, by a mathematical proposition to make the apportionment. Suppose it should happen that the population of some State is padded? Why, some city upon the Pacific coast—I think it was Tacoma—in this recent census was padded to the extent of a number of thousands of population. What happened in one city may happen in some State, and yet in the face of conditions like that, without any intervening action on the part of the Congress, the Secretary of Commerce and Labor would attempt to make the apportionment. It is not only possible but it is probable that the result of the population might be certified to the Secretary of Commerce and Labor at a time when Congress is not in session, and he would make this apportionment without any opportunity on the part of the Congress to interfere, even if conditions existed which would warrant the interference, and such conditions might well exist. I think, Mr. Chairman, that this is the function of the contemporary Congress which is in session after each decennial session and not for this Congress to determine.

The CHAIRMAN. The time of the gentleman has expired. [Cries of "Vote!" "Vote!"]

New Mexico and Arizona.

SPEECH

OF

HON. JOHN H. STEPHENS,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, August 19, 1911,

On the joint resolution (S. J. Res. 57) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona.

Mr. STEPHENS of Texas said:

Mr. SPEAKER: A deeper question than the recall of Federal judges is involved in this veto message of the President. That question is this: Shall the people of Arizona be permitted to write their own constitution? If they are not patriotic or intelligent enough to write it, they should be denied statehood. If, on the other hand, they do write one, they should be permitted to do so without Executive coercion. What right has the Executive head of this Government to hold in terrorem a whole people by forcing them to bow to his own sweet will and adopt his individual ideas of the judiciary? They have, in effect, been told by this veto message that if they refuse to obey his despotic will and yield up the right to recall from the bench an unjust judge that they shall remain under the present form of territorial carpet-bag government. I am opposed to continuing in office Federal judges who are not even citizens of the State in many cases, and their past acts prove that they have nothing in common or any sympathy with the people of Arizona; their rulings are too often dictated and controlled by corporate greed. Judicial tyranny is well known to be the result of and cloak to incompetency, and is always the worst possible form of tyranny; and we must remember that for more than 50 years the people of Arizona have been deprived of the right to select their own judges from their own citizenship, and the arbitrary acts and rulings of an alien appointive judiciary to the Territorial bench has resulted in a constitutional enactment which would have enabled the people to recall bad judges. Why should the President veto the right of these people to write their constitution?

Mr. Speaker, in my judgment the people of Arizona, if any excuse or justification was needed, have ample justification for writing into their constitution the power of the people to recall their judges, because it is a well-recognized fact that the Territorial Federal judges are too often politicians and not lawyers in the true sense of the word. Too often they are taken from the political lame-duck pond and appointed to office to pay a real or fancied or promised political debt. Being in many instances imported from the States they can very readily harass and very often do lord it over a helpless people. Mr. Speaker, I believe that the Federal judiciary should be elected from top to bottom, giving them short terms of office, so as to make them servants and not the masters of the people. Nearly all of the State constitutions require all State judges, including the judges of their supreme courts, to be elected by the people. This is almost the universal rule, and why should not the Federal judges be likewise elected by the people and from the districts they serve? The Supreme Court judges should also be elected from nine separate districts created by Congress.

It is my hope, belief, and judgment that if any Democrat in this or the other end of the Capitol should so far forget his duty to his country and his party as to vote against the admission of Arizona because of its constitution, that such person will never again be elected to misrepresent the people who sent him here. Mr. Speaker, I desire to call attention to the recall of judges provided for in the present constitution of Texas, adopted in 1876, and as provided for in article 15, section 6. It is as follows, viz:

REMOVAL OF DISTRICT JUDGES.

Any judge of the district courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the supreme court. The supreme court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than 10 lawyers, practicing in the courts held by such judge and licensed to practice in the supreme court, said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths to the facts of creditable witnesses.

The supreme court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

No judge has ever been tried in Texas under this provision of our constitution. The reason is to be found in the fact that our judges are elected by the people for comparatively short terms, and they dare not become unjust in their rulings or tyrannical bigots on the bench, as many Federal judges, holding their office by appointment for life, have become. This class of men, not elected by the people but appointed for life, are set up on a pedestal of supposed infallibility and self-righteousness so far above the heads of the common people that they in course of time become their arrogant masters, and they very often render judgments that put property and corporate rights far above individual or human rights. These potent facts have induced the citizens of Arizona in self-defense to write the recall of judges in their new constitution. Who will find fault with them for their just and well-founded fear of judicial oppression? I will not, I am sure. Are not judges called from the members of the bar? Since when has the discovery been made that lawyers are any better—morally, intellectually, or otherwise—than the common herd of mankind? They are no better and no worse; and when one of them is appointed to a Federal judgeship, does this distinction renovate and convert the old Adam found in most mortals and thus wholly change the moral or mental equipment of the man? In nearly every instance coming under my observation Federal judges, from the lowest to the highest, as well as our Cabinet officers and presidential advisers, are selected by the corporate and money-controlled interests of the country, and in almost every instance they have been the attorney for these interests, and it is well known that they too often remain their tools on the bench and in the Cabinet.

Mr. Speaker, our Republican stand-pat friends objected to the recall of the judges provided for in the Arizona constitution when this bill passed this House recently, and they refused to vote for that constitution for this alleged reason. I firmly believed then, and believe now, that their reason—and the only one—for their opposition was the fear that Arizona would send two Democratic Senators to the United States Senate, and that their reason for voting in favor of New Mexico was that it would elect two Republican Senators. Yet when this bill passed this Democratic body and went to the other end of this Capitol for consideration in a Republican body I believed that it would pass that body also and become a law. I did not expect to see a President elected by all the people of this Union refuse to approve the Flood resolution, thus admitting the two States into the Union, but I was sadly mistaken. The Delegate from Arizona and the Republican leader on this floor assured us in advance that he would veto the Flood resolution, and he did. Now, let him and his party take the consequences of their refusal to let the people of a proposed State write their own constitution without dictation or Executive coercion.

The Republican Party in its platform, and its orators in the campaign of 1860, denounced the Supreme Court of the United States for rendering the famous Dred Scott decision in the most drastic language, thus proving that Lincoln and other founders of the Republican Party, in their earlier and better days, refused to deify Federal judges or to worship at the shrine of their supposed judicial infallibility. This was before the Federal courts had become the self-appointed guardians of the corporate wealth of the country. The judges of these courts are constantly reversing the decisions of other judges and courts, and sometimes they reverse their own decisions, thus admitting that judges are but ordinary human beings and subject to commit errors. The most drastic, forceful, and truthful language is sometimes used by judges of the Supreme Court of the United States in criticizing the decisions of that court, which court is the highest court on earth, and its members bitterly and often criticize its rulings. If they can do so with impunity, is it treason for the common people to do the same thing? In any event I shall reserve for myself, and for the veto-oppressed people of Arizona, the right to find fault with, criticize, and point out the faults and errors of Federal judges, and, standing with the people of Arizona, I shall insist on their right to recall any unfaithful servant, be he a deified judge or the humblest servant of the people.

Mr. Speaker, I am certain that I shall be unmercifully criticized by the apologist for the trust and all those persons who are always seeking favors from corporate wealth, for criticizing the Federal courts as I have done in this speech. Mr. Speaker, I criticize these courts because, in my judgment, they have done more to build up the trust and to permit great aggregations of wealthy individuals and corporations to combine and exploit the whole people than all other influences combined. On the other hand, they have often issued unjust injunctions against labor organizations at the instance of corporations. I do not stand alone in my criticisms of these courts, because we find that Justice Harlan, in his dissenting opinion in the

income-tax cases, says on the bottom of page 685, volume 158, also dissenting in said cases, on page 695, says:

The practical effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization, and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government, and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless.

Also Justice White—now Chief Justice of the Supreme Court—also dissenting in said case, on page 695, says:

It is difficult to overestimate the importance of these cases. I certainly can not overstate the regret I feel at the dispositon made of them by the court. It is never a light thing to set aside the deliberate will of the legislature, and, in my opinion, it should never be done except upon the clearest proof of its conflict with the fundamental law. Respect for the Constitution will not be inspired by a narrow and technical construction which shall limit or impair the necessary powers of Congress. Did the reversal of these cases involve merely the striking down of the inequitable features of the law, or even the whole law, for its want of uniformity, the consequences would be less serious; but as it implies a declaration that every income tax must be laid according to the rule of apportionment, the decision involves nothing less than a surrender of the taxing power to the moneyed class. By resuscitating an argument that was exploded in the Hylton case, and has lain practically dormant for a hundred years, it is made to do duty in nullifying not this law alone, but every similar law that is not based upon an impossible theory of apportionment. Even the specter of socialism is conjured up to frighten Congress from laying taxes upon the people in proportion to their ability to pay them. It is certainly a strange commentary upon the Constitution of the United States and upon a democratic Government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized State. It is a confession of feebleness in which I find myself wholly unable to join.

While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth.

As I can not escape the conviction that the decision of the court in this great case is fraught with immeasurable danger to the future of the country, and that it approaches the proportions of a national calamity, I feel it a duty to enter my protest against it.

When these great judges speak out in such ringing tones against the manifest tendency of the highest Federal tribunal to (using their own language) "become subjected to the dominion of aggregated wealth," what may me expect of the decisions of the lower Federal courts, whose judges are much more liable to be subjected to the dominion of aggregated wealth (if I may be permitted to use the language of Justice Harlan in the income-tax case quoted above)? Mr. Speaker, we find that the same great judge, in a very recently decided case, known as the Standard Oil case, again criticizes this great court in his dissenting opinion. The Washington Herald, discussing that opinion the next morning after its rendition, makes the following statement:

JUSTICE HARLAN.

Peculiar interest is given to the dissenting opinion of Justice Harlan, of the United States Supreme Court, in the Standard Oil case by the worded similarity between the views of the justice and of President Taft with respect to "good" and "bad" trusts, and the writing into the statute of the word "unreasonable," as modifying the prohibition with respect to interstate trade.

The transcript of the stenographic notes of Justice Harlan's oral delivery in dissent became available last night. He said, in part:

"The antitrust act of 1890 was passed at a time when this country was in a state of great unrest, arising out of an enormous aggregation of capital in a few hands and arising out of combinations which had their hands upon the throat of this country in respect even to the necessities of life, and Congress had before it the great question as to how these evils were to be remedied so far as Congress had the power to remedy them. The question was, 'What shall we do?'

"They finally, after great debate by able statesmen, passed the antitrust act of 1890. Let me direct attention to a few of the words of that act. It provides, in section 1:

"QUOTES PART OF ACT.

"'That every contract, combination in form of trust or otherwise, or conspiracy' * * *

"Not in restraint of trade, as the learned Chief Justice said in one part of his remarks, but—

"'* * * in restraint of trade among the several States and with foreign nations, is hereby declared to be illegal.'

"Congress has nothing to do with domestic trade in the States, but as to interstate trade it has a great deal to do, and therefore it fell upon this policy.

"The men who were in the Congress of the United States at that time knew what the common law was about the restraint of trade.

"They knew what restraints of trade at common law were lawful and what were unlawful. But Congress said:

"'The surest way to protect interstate commerce is not to start upon any distinctions at all as to the kinds of trade, not "every" contract in restraint of trade among the States is hereby declared to be illegal.'

"MONOPOLY QUESTION ARISES.

"Then, in the second section—

"'Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize'—

"Monopolize what?—

"'any part of interstate trade or commerce shall be liable to the penalties prescribed by this act.'

"What becomes, then, of the statement that this act did not condemn monopoly in itself? Did not these men know what a monopoly was? And when Congress said that we will punish any man that monopolizes or attempts to monopolize any part of interstate commerce, did it not know what it intended? That is not all:

"'Every contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce among the States, is hereby declared illegal.'

"Therefore Congress said to all the people of this country:

"'We are not going to bother the courts or ourselves with any inquiries as to what contracts are in restraint of trade, reasonably or unreasonably. We are not going to leave that to any jury. We are not going to leave that to any circuit judge. We will determine it as a part of the policy of the United States that, so far as interstate trade is concerned, no body or corporation shall make or attempt to enforce a contract, any contract, that in any degree restrains interstate trade.'

"MEANING CLEARLY SET FORTH.

"Can anybody doubt the meaning of those words? If you say 2 and 2 make 4, you would not make it any plainer than those words make out the intention of Congress.

"It is now, with much amplification of argument, urged that this statute in declaring illegal every combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce, does not mean what the language used therein plainly imports, but that it means only to declare illegal any such contract which is unreasonable restraint of trade, while leaving all others unaffected by the provisions of the act; that the common law—we hear a good deal about that in this opinion—that the common-law meaning of the term 'contract in restraint of trade' includes only such contracts as are in unreasonable restraint of trade, and where that term is used in the Federal statute it is not intended to include all contracts in restraint, but only those which are in unreasonable restraint thereof.

"TENDENCY OF THE RICH.

"In the now not very short life that I have passed in this capital and the public service of the court, the most alarming tendency of this day, in my judgment, so far as the safety and integrity of our institutions are concerned, is the tendency to judicial legislation, so that when men having vast interests are concerned, and they can not get the lawmaking power of the country which controls it to pass the legislation they desire, the next thing they do is to raise the question in some case to get the court to so construe the Constitution or the statues as to mean what they want it to mean. That has not been our practice.

"Prosecutions have been instituted and I suppose men have been convicted and sent to jail under the antitrust act upon the construction that this court has given to it.

"The court, in the opinion in this case, says that this act of Congress means and embraces only unreasonable restraint of trade—in flat contradiction to what this court has said 15 years ago that Congress did not intend.

"If you will take the trouble to look through the Federal Reporter you will find that possibly nearly every Federal court in this country has accepted these original decisions as the final decision of this court as to the meaning of the act of Congress.

"Now we are asked to change the rule, and to say:

"'It may be true that, in the words of the statute, this contract, or this agreement, is in restraint of interstate trade. It may be. But it is a lawful restraint of trade.'

"Contrary to the decision of this court.

"I say contrary to the practice and usage of this court.

"CONTRARY TO FORMER DECISIONS.

"If I mistake not, more than once at this term a lawyer has been compelled to take his seat, to stop the particular line of argument that he was pursuing, because he was arguing against a former decision of this court on that very question. He was wanting to break down that former decision.

"While this happens to be a case of an overshadowing combination of such vast wealth and enormous power that it may fairly be deemed a menace to the general business interests of the country, this difference ought not to induce us to depart from a settled, wholesome rule, which, being faithfully observed, will guard the integrity and secure the safety of the Nation and of its institutions against the attacks of those who would undermine all law and who would, for the sake of present advantages and ends, be willing to undo the work of the fathers.

"Why do I say to undo the work of the fathers? If there is any feature in our governmental system that is new among the nations of the earth, it is that provision of the Federal Constitution which divides the departments of Government among three coordinate branches—legislative, executive, and judicial—and neither branch has the right to encroach upon the domain of the other.

"Practically the decision to-day—I do not mean the judgment—but parts of the opinion, are to the effect, practically, that the courts may, by mere judicial construction, amend the Constitution of the United States or an act of Congress. That, it strikes me, is mischievous, and that is the part of the opinion that I especially object to."

Mr. Speaker, the Republican and Democratic Parties have declared in favor of statehood for these Territories in all of their recent platforms, and it has been left for a Democratic House of Representatives and a combination of Democrats and insurgent Republicans in the Senate to compel the regular Republicans to permit the passage of the Flood statehood resolution at this session of Congress. The Sixty-first Congress—which had an overwhelming Republican majority—passed a bill making but one State out of the two Territories, thus violating their oft-repeated platform pledges and acting in bad faith with the people of these Territories, and had it not been for the determined Democratic opposition in Congress and the hard fight made against this outrage by the Democrats of Arizona these Territories would have been yoked together as one State. The Sixty-second Congress, still largely Republican, passed another enabling act, but broke faith with the people of these Territories by requiring Congress and the President to ratify the constitutions to be made by these people before they could be admitted as States, thus putting a string on their admission.

This was the first time that any Congress ever endeavored to force the people of a new State to enact only a constitution that would suit the purposes of the Republican politicians in Congress. The determined fight made by Senator OWEN and other Democrats in the Senate prevented the passage of this monstrous law.

The American people, at the national elections last year, for this and other outrages, repudiated the Republican Party and elected a Democratic House of Representatives, and they have, with insurgent aid in the Senate, put two new States into the Union despite the well-known opposition of the stand-pat Republicans and the veto of their President. Had the last election continued the Republican Party in power, statehood by this Congress would have again failed. The party that for political purposes has endeavored to put these two Territories into the Union as one State, thus giving this great scope of southern country only two United States Senators, was only playing politics. The same party for political purposes a few years ago divided the Territory of Dakota into two parts (North and South Dakota), and thus made two States out of one Territory and magnanimously gave themselves four United States Senators. The sectionalism, injustice, and unfairness of this old, repudiated, wealth and trust ridden party is well exemplified in making these two new Republican States out of one Territory in the northern part of the United States. I desire to call attention to the effort of this party to permit New Mexico to become a State with a constitution dictated by the attorneys for the railroads and trusts of that unfortunate and trust-ridden Territory. This entire matter is well voiced and truthfully stated in a recent editorial in the National Post. It is as follows:

THE MENACING CONSTITUTION OF NEW MEXICO.

While the very democratic constitution of Arizona, containing the initiative, referendum, and recall, has been heralded from one end of the country to the other as subversive of our institutions, scarcely a word of protest has been raised against the constitution of New Mexico, which places the people of that Territory in perpetual subjection to the corporate interests active in its framing. There is sufficient internal evidence in the constitution itself to convict the railroads and the other privileged corporations of the Territory with having copper riveted New Mexico as a perpetual patrimony under their control.

The result has been achieved by various subtle provisions in the constitution discovered by Senator ROBERT L. OWEN, which, read together, provide in effect:

(1) That the ballot shall be "open," which, according to judicial interpretation, appears to deny the introduction of the secret Australian ballot and limits elections to some "open" method of showing hands or viva voce voting.

(2) That any educational limitation on the suffrage is specifically and absolutely prohibited, which, taken in connection with the fact that one-quarter of the population of New Mexico is Mexican, speaks only Spanish, and is largely in the employ of the railroads and other interests, means that this class can be herded and voted as its employers dictate.

(3) That any amendment of the constitution is almost impossible, the requirement to change it in any respect being that a resolution must be passed by two succeeding sessions of the legislature and by a two-thirds vote of all the members elected to each house; that then the amendment must be submitted to the people and that for adoption it must receive a majority of all the votes cast at the election; and an affirmative vote of at least 40 per cent of all those voting at the election, and in at least one-half the counties in the State.

It is this latter provision that makes amendment impossible. Not more than 60 per cent of the electors commonly vote on constitutional questions, and in order that an amendment may carry it must secure two-thirds of all the votes cast on the resolution. With the large Mexican illiterate vote, the open ballot subject to oversight by the privileged interests, and with no corrupt-practices act, any amendment that privilege disapproves is out of the question.

Senator OWEN insists that this is not a matter affecting New Mexico alone; it affects the Nation. If New Mexico is to be controlled in perpetuity by privileged interests, the new State will send Members to the United States Senate subservient to their will. In order to meet this condition Senator OWEN has announced that he will offer a resolution providing that before New Mexico is admitted the people shall vote on amendments providing for a corrupt-practices act as well as for a provision enabling the legislature to propose any amendment within five years by a mere majority vote of the two houses, which amendments may be adopted by a majority vote of all those voting thereon, the election to be held under the secret ballot.

Mr. Speaker, the Flood resolution contains a provision requiring that the line between Texas and New Mexico as defined and as is now being established by a joint commission composed of Judge Scott, on the part of Texas, and ex-Senator Cockrell, on the part of the United States, and known as the old Clark line, shall be and remain the true line between New Mexico and Texas.

Mr. Speaker, New Mexico endeavored to repudiate the old Clark line in the new constitution, and had it been adopted, Texas would possibly have lost a considerable strip of territory on her western boundary. I have been fighting for 10 years to have the Clark boundary line recognized, and it was only in the last session of the last Congress that I secured the passage of my bill settling the vexed question in favor of Texas; and the provision of the Flood resolution I have mentioned will write into the constitution of New Mexico a provision recognizing the old Clark line as defined in the law I have just referred to.

Mr. Speaker, the whole country, and more especially the country west of the Mississippi River, is to be congratulated on the entry into the Union of these two new States. The addition of four new United States Senators and several Congressmen to the strength of the West will materially aid the development of that almost unknown southwestern country. I believe that statehood will bring within their borders many thousands of miners, farmers, and ranchmen to develop the almost untouched wealth of these two Commonwealths. My own great State—Texas—will be greatly benefited by the rising and new tide of immigration and wealth that will be attracted to these new and sister States of the Southwest.

Eulogy on the late Hon. John W. Daniel.

MEMORIAL ADDRESS

OF

HON. JOHN H. SMALL,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 24, 1911,

On House resolution 223:

"*Resolved*, That the business of the House be now suspended that opportunity may be given for the tribute to the memory of Hon. JOHN W. DANIEL, late a Senator from the State of Virginia.

"*Resolved*, That as a further mark of respect to the memory of the deceased, and in recognition of his eminent ability and illustrious public services, the House, at the conclusion of these memorial services, shall adjourn.

"*Resolved*, That the Clerk communicate these resolutions to the Senate.

"*Resolved*, That the Clerk be instructed to send a copy of these resolutions to the family of the deceased."

Mr. SMALL said:

Mr. SPEAKER: When we gather to pay tribute to the achievements and memory of a man, particularly one whose life was largely devoted to the public service, it is a happy reflection to feel that our admiration and love is universally shared by the people whom he directly served and by those of the whole country so fortunate as to claim personal acquaintance or familiarity with his career. Such a relation do we and others sustain toward the late JOHN W. DANIEL, the distinguished citizen and so long a Senator from the State of Virginia.

Some men command applause for their genius. Some compel admiration for their intellectual acumen, their persistence, and forcefulness; some for the material things they have wrought. Others by their high ideals and fine character exact our respect and consideration. But it is only given to the few to receive as a voluntary tribute the love and affection of a whole people, to possess their entire confidence and trust.

I shall not attempt even in a brief way to recount the achievements of this distinguished Virginian. As a soldier he offered the very flower of his youth to the service of the people of his State, and his life, if need be, was tendered as a willing sacrifice for a cause they both believed to be right. As a lawyer and law writer he brought to the service of this jealous mistress a goodly heritage of mental powers, which he developed by assiduous training until his learning and breadth of knowledge made him a peer among a galaxy of eminent lawyers. As an orator among a people where eloquence was indigenous and speech was tuned to music, his magnificent presence, his musical voice, his pure English, and his broad culture placed him in rank with the most eminent orators of the Old Dominion.

As a Senator he met the loftiest ideals in that great body and set the pace for distinguished service.

As a statesman and publicist he brought to the public service a trained mind, a store of knowledge, a grounding in the principles of government, and such sane and wholesome ideals of a democracy as to make him wise in counsel, forceful in debate, and a potent factor in shaping necessary and constructive legislation.

All these qualities and achievements have been described in these tributes in such terms and with such eloquence as I may not hope to emulate.

I shall content myself with a brief reference to some of those qualities which marked Senator DANIEL in his relations and intercourse with his kind. No man in this world can get the things worth having, whether it be wealth, station, or fame, without at the same time making himself a large debtor to this same world. The account must be reciprocal. This debt may be paid in various ways. Contributions may be made to those co-

operative movements which seek to ameliorate evils or to elevate society. To the individual with whom he comes in contact he may extend the glad hand of succor and encouragement. To all he may make his presence a beacon of light and a sweet benediction. Senator DANIEL, by reason of the eminence which he attained, became a large creditor of humanity, but he realized his obligation. Freely, generously, and insistently he made recompense. Day by day with lavish hand he carried joy and gladness. The years as they passed yielded useful fruitage in the promotion of many agencies for human betterment. By this life he drank deep at the fountain of joyous contentment. While the people had accorded to him high position and the music of applause had often been sounded in his ears, his sweet spirit was not spoiled and his modesty was unchanged. He knew that it was more blessed to give than to receive and that the highest distinction was exemplified in the spirit of service. There can be no doubt that out of his life he gave more than he received, and when the grim reaper came he left the world his debtor.

I love to recall the personality of the man. While always stately and dignified in manner, yet there was nothing repellant or cold in his demeanor. Beneath the shield which repelled familiarity there was the gentle courtesy, the loving spirit and the personal consideration which disarmed you in his presence and made you his friend. He was of the type of the Virginia gentleman, and there was no higher, and in truth it can be said no higher encomium can be paid to his memory.

One of the most agreeable retrospections which can come to me is the recollection of my personal association with him. While neither frequent nor prolonged, yet there was never a time when I did not feel free to consult him on matters of serious import or to meet him in social converse. There were doubtless times when his dauntless spirit was repressed or pain racked his body, but he never failed in the smile of recognition or forgot the amenities of a gentleman.

In a recent conversation with another Virginian, also of distinguished ancestry, he gave me an anonymous definition of a gentleman which may be fittingly applied to JOHN WARWICK DANIEL:

A knight whose armor is honor
And whose weapon is courtesy.

The Late Senator Daniel.

MEMORIAL ADDRESS
OF
HON. E. W. SAUNDERS.
OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday June 24, 1911,

On the following resolution (H. Res. 223):

"*Resolved*, That the business of the House be now suspended that opportunity may be given for the tribute to the memory of Hon. JOHN W. DANIEL, late a Senator from the State of Virginia.

"*Resolved*, That as a further mark of respect to the memory of the deceased, and in recognition of his eminent ability and illustrious public services, the House, at the conclusion of these memorial services, shall adjourn.

"*Resolved*, That the Clerk communicate these resolutions to the Senate.

"*Resolved*, That the Clerk be instructed to send a copy of these resolutions to the family of the deceased."

Mr. SAUNDERS said:

Mr. SPEAKER: The subject of these exercises was born in Lynchburg in September 1842, and was fairly entitled by heredity to the robustness of intellect, and graces of character for which he was distinguished. On both sides of his house, he came of distinguished lineage. His paternal grandfather, William Daniel, sr., was a cotemporary of James Madison—serving with him in the Virginia Legislature of 1799. He was conspicuous in the proceedings of two legislatures of which he was a member, and was one of the ablest judges of that day, achieving great distinction both as a judge of the circuit court, and as a member of the court of criminal appeals, composed of the circuit judges of the entire State.

Senator DANIEL'S father was William Daniel, jr., a scholar, legislator, and judge. At all times Virginians, especially Virginia lawyers, have been subject to the fascination of political life, and the most distinguished practitioners in that State have not found service in the House of Delegates, or the Senate, incompatible with the most assiduous and successful pursuit of the law. Hence it is not surprising to find that Judge Daniel, jr., like his father, served several terms in the General Assembly, before going on the bench. He was first elected to the House of Delegates in 1831. His eminent abilities soon rendered him a conspicuous figure in that body. By 1846, Judge Daniel had become one of the foremost men of Virginia, and during that year was elected a judge of the supreme court of his State, a position which he filled with most distinguished ability for a number of years. Maj. DANIEL'S mother was Miss Sarah Anne Warwick, a daughter of John M. Warwick, who was a successful merchant in the city of Lynchburg.

His home was the seat of a gracious and beautiful hospitality which was generously dispensed, until the ravages of a cruel war swept away his large fortune. Judge Daniel's wife died young, and JOHN W. DANIEL and his sister were in substance if not in form, adopted by their maternal grandparents, who lavished upon them an affection which was ardently returned. In later years Maj. DANIEL, in speaking of his grandfather, John M. Warwick, paid him a tribute that deserves to be reproduced in this connection:

> A nobler man never lived, hospitable, gentle, calm, self-poised—a gentleman in honor, in manners, and in innate refinement. A pure and lofty soul, he seemed to me to be everything that a man could be to be respected and loved. Successful from his youth in his business, with a mercantile "touch of gold"; he was rich and generous, without pretension, or pride; and when the end of the war prostrated his fortune, and he became old and almost blind, his easy dignity lost no feature of his serene composure, and out of his true heart, came no complaint of man, or fortune. He accepted the dread issue of Appomattox, without a murmur, and took the fate of his people, with all of the fortitude and manliness, and with none of the show of the Roman Senators who saw the barbarians enter Rome.

When the Civil War sounded its tocsin Maj. DANIEL, then a young man of 18, promptly volunteered his services, and as a private entered a cavalry troop then organizing in his native city. At the time he was the beau ideal of a young soldier. Straight as an arrow, handsome as a young god, with flashing eye, and graceful carriage, he was indeed good to look upon. He was soon appointed second lieutenant, and received his baptism of fire at Manassas. During this fight he was wounded twice, the second injury being a serious one which incapacitated him for service for several weeks. In his first battle Major, then Lieutenant DANIEL evinced that conspicuous gallantry, for which he was distinguished during his entire military career.

Lieutenant DANIEL became Maj. DANIEL, and a staff officer, in March 1863. His active service covered a period of almost three years. During that time he participated in many great battles, serving mainly under Gen. Jubal A. Early, whom he extravagantly admired, and was always ready to defend, against any criticisms directed against his military conduct, or capacity. This admiration was returned by Gen. Early who looked upon him almost as a son, and after the war followed his political fortunes with unceasing interest and unwavering support. While in the act of rallying a broken regiment at the Battle of the Wilderness, Maj. DANIEL was severely wounded by a Minié bullet which shattered his thigh.

This wound terminated his military activities, and permanently crippled him. For the remainder of his life he bore the sequel of pain occasioned by this injury, with uncomplaining fortitude. Later in his career, at a great political gathering in his native State, an enthusiastic admirer referred to him as the "Lame Lion of Lynchburg." This name caught the popular fancy, and clung to him from that time forward. It will always be associated with JOHN W. DANIEL by those who knew him in life. The mere sight of that stately figure with its pathetic limp, ever served to set a Virginia audience aflame, and interrupt whatever else was in progress, by a storm of vociferous and spontaneous applause.

After the war Maj. DANIEL was without fortune, or vocation. Naturally he turned to that profession in which his father and grandfather had won such distinction, and for which he possessed unusual gifts of mind and character. He entered that great school of law then presided over by John B. Minor, and prosecuted his studies with the energy which distinguished all his efforts. Shortly after leaving the university he formed a partnership with his father which continued until the latter's death in 1873. In the practice of his profession Maj. DANIEL met with immediate success. Gifted in many directions, studious, eloquent, splendidly ornate in illustration, yet severely logical in argument, the richness of his reasoning, and his compelling power of speech made him a power alike before the courts, and juries. He was the author of two books which added greatly to his reputation as a lawyer—Daniel on Attachments, and Daniel on Negotiable Instruments.

The first was a compendious handbook chiefly designed for local use, and extremely serviceable at the time, the other was on a more ambitious scale, and may be fairly styled a monu-

mental work. The labor of its preparation was prodigious, and its reception by the legal world most flattering. It is a recognized authority in the courts of Great Britain, the United States and Canada, and has run through five editions. Maj. DANIEL early felt the lure of politics. This was inevitable, for his ambitions ran in this direction, but apart from personal inclination, he was almost forced into the political arena by the imperative demand that unsettled political conditions in Virginia made upon the services of all genuine patriots. This was a call that Maj. DANIEL was the last man to ignore, and he volunteered for duty with the same ardor and enthusiasm with which he tendered his services to the cause of the Confederacy. He was first elected to the House of Delegates in 1869, and served in that body for three years. Later he was elected to the State senate, and re-elected in 1878. Maj. DANIEL was twice a candidate for the nomination for Congress in the old Lynchburg district, and twice defeated. He was also defeated as a candidate for governor. The feeling in Virginia in 1881 over the local issue of readjusterism against funderism was intense. The readjusters nominated for governor William E. Cameron, a vigorous, able, and aggressive speaker.

The Democrats turned to Maj. DANIEL. Personally he was unwilling to become a candidate. The issue was doubtful, and his private affairs required his unremitting attention. But the call to lead was imperative, and obedience to its demand seemed a duty. Maj. DANIEL was not the man to shirk a duty in any form, and was as willing to lead a forlorn hope in a political engagement, as on the pitched field of murderous battle. The campaign that followed was the most exciting ever conducted in Virginia. At times it seemed as if by the sheer force of his intense and magnetic personality and the witchery of his eloquence, Maj. DANIEL would carry his party's flag to victory. But it was not to be. His opponent was elected by a large majority. But this contest fixed Maj. DANIEL's place in the affections of his party, and from that time forward, anything that he wanted of the Democrats of Virginia, was his for the asking.

In 1884 Maj. DANIEL was elected to the House of Representatives, and before the expiration of his term was elected to the Senate, a position that he held at the time of his death, having just been unanimously re-elected for the fourth time. In addition to these honors, Maj. DANIEL was many times a delegate to the national conventions of his party, and the temporary chairman of the convention of 1896. In 1901 he was elected a member of the Virginia constitutional convention, and took a leading part in its deliberations. It is an open secret in that State, that if he had allowed his friends to put him forward, he would have been made president of the convention.

This brief sketch of Maj. DANIEL's life affords but an inadequate account of its honors, and his activities in many directions. He was in constant demand for public addresses, and his orations on these occasions would alone serve to establish his reputation as a great orator, one of the greatest that this country has produced. The greatest of these orations, the one perhaps that gave him the most instant reputation, was a memorable eulogy delivered in Lexington in 1883, on the occasion of the unveiling of the recumbent statue of Gen. R. E. Lee. The effect of this address was thrilling, and instantaneous. Its rich cadences lingered in the ears of his auditors, like strains of sweet and solemn music, so that they were loath to leave the scene of their enchantment. Like Adam, on another occasion, they stood still, transfixed with wonder, and delight.

> The angel ended, and in Adam's ear,
> So charming left his voice, that he awhile,
> Thought him still speaking, still stood transfixed to hear.

But there are many other addresses that take close rank with this masterpiece, and will be included in the volume of his orations soon to be published. Perhaps there is no man in the United States who has made more speeches of a purely political character than Maj. DANIEL. He was always at the call of his associates when a campaign was in progress, and in any community of Virginia where conditions were considered to be untoward, Maj. DANIEL was put forward to speak for his party. Even after his position had become so assured, that there was no occasion for him to "mend his fences," he relaxed in nowise, his accustomed participation in the activities of the annually recurring political contests of his State. It was characteristic of this great man that he accepted defeat without bitterness. He brought no railing accusation against his party, when he failed to secure the nominations to high office, upon which he had set the hope of an honorable ambition.

Maj. DANIEL was not equipped to attain popularity by the arts usually deemed essential. He was not a mixer. He maintained no organization, though an organization man. He was not a supple diplomatist. He never shirked an issue. He was plain, direct, straightforward, and unassuming. He respected himself, and therefore respected others. To trickery in all its forms, he was vehemently opposed. His nature was sincere, and his heart as far from deceit, as heaven from earth. Scorning any form of evasion, or double dealing, he was one of those rare natures who:

> Would not flatter Neptune for his trident,
> Or Jove for his thunder.

The meditations of his heart were never concealed by veiled, or subtle forms of speech. He contemned the cynical maxim of Talleyrand, that speech was given to men to conceal their thoughts, and rejoiced to express his attitude on all questions requiring expression, in terms that were incapable of misapprehension. Like the father of poesy, he could say:

> Hateful to me, as are the gates of hell,
> Is he, who hiding one thing in his heart,
> Utters another.

But his utter frankness, his sincerity, his simplicity of nature, his free but courteous speech, drew men to him, and held their imaginations captive, in bonds stronger than the most cunning artificer could forge for the physical restraint of their persons.

In Virginia, DANIEL was a sentiment. He occupied a unique position in our State. There was no rival near his throne. Secure in his hold upon our people, he was at once, loved, admired, and revered. Some men are loved, others are admired, still others are revered, but it is given to few to excite the three emotions on the largest and most generous scale. He was admired for the splendor of his glowing rhetoric, the variety and sweep of his thought, his copious diction, and his noble and stately eloquence. He was loved, because he loved much. He was revered for his lofty conception of public, and private duty, the Spartan character of his integrity, and the essential purity of his life.

Maj. DANIEL's capacity for work was marvelous, and his industry unremitting. The combination of great natural powers, and indefatigable application, enabled him to accomplish results that are little short of stupendous, when we consider the demands constantly made upon his time by the exacting requirements of a public life that began when he was almost a boy, and the further fact that he was rarely free from gnawing pain, the legacy of honorable wounds. And yet we know that much of the world's best work has been done with pain as a constant companion. This was true in the case of the great preacher Hall, whose life was a long moan of agony. This was true in the case of many others, whose waking moments were a ceaseless succession of racking torments. Maj. DANIEL might have said, as a greater genius did say, in pathetic reference to himself: "For years I have not had a day's real health. I have wakened sick, and gone to bed weary; and I have done my work unflinchingly." That work to-day is a priceless treasure of this generation. Unflinchingly. Ah! That is the word. Unflinchingly. How well it describes Maj. DANIEL's discharge of duty, his performance of all tasks, whether self-imposed, or not. In this unflinching attitude toward the day's work, is found the secret of his success. The treasures of his learning were freely used in public speech. Drawing on the stores of a broad and generous culture, there was no subject which he touched that he failed to illumine and adorn. He had "the taste, the judgment, the erudition, the feeling for the beautiful, the appreciation of the noble, and the sense of the profound," which enabled him at all times to quote well, and copiously.

He was ambitious, but his ambition was honorable aspiration to "do some valiant deed, of which mankind should hear in aftertime." His was the ambition to achieve great things along the path of duty, not the vaulting ambition that overleaps itself. He had a nature of whom friends and foes alike could say, that: "If it be a sin to covet honor, he was the most offending soul alive." Maj. DANIEL was intensely democratic, and intensely patriotic. His vision was large and clear. He loved the Virginia of the past, the Virginia of history, and of tradition, but he did not live in the past. He was a vital part of the throbbing present. At times when absorbed in contemplation, he had the look of the mystic, but he was not a dreamer. He was strong, virile, and intense. When he struck, he struck hard. When he allowed his thoughts to range, they ranged widely. He did not hesitate "to lean over the rim" of the present, and—

> Dip into the future, far as human eye could see,
> View the vision of the world, and all the wonder that would be.

In public service his object was "his country, his whole country, and nothing but his country." Like Coriolanus he could say:

I do love my country's good, with a respect more tender, more holy and profound, than mine own life.

In his relation to his constituents, Maj. DANIEL was frankness itself. He was too fond of the right to pursue the expedient. While never attacking his party, or deriding his adversaries, he never allowed himself to be swept along by the force of a public opinion that ran counter to his judgment. He might defer to that opinion, when such deference involved no surrender, or abandonment of principle, but his own attitude was always known—and he never hesitated to avow it, regardless of the possible effect upon his own personal fortunes. He possessed that courage which is the essential of high character, that courage of which it is said—

Courage the highest gift, that scorns to bend,
To mean devices for a sordid end.
Courage, an independent spark from Heaven's bright throne,
By which the soul stands raised, triumphant, high, alone.
Great in itself, not praises of the crowd,
Above all vice, it stoops not to be proud.
Courage, the mighty attribute of powers above,
By which those great in war, are great in love.
The spring of all brave acts, is seated here,
As falsehoods draw their sordid birth from fear.

His ideals were not reserved for the closet, or for abstract contemplation. He conformed the activities of daily life to their requirements.

Slander, whose edge is sharper than the sword, never touched Senator DANIEL. It is often said that envy assails the noblest, and the winds howl around the highest peaks. But there was something in the grave, and stately decorum of Maj. DANIEL'S life, that quenched the fiery darts of malice, and stilled the winds of detraction. He was never ashamed to meet the eyes of other men, for in his whole life there was no act of which he needed to feel ashamed. Like the great Pitt he wrapped himself in the mantle of his integrity. Secure within its ample and spotless folds, he dared his adversaries to do their worst. The white light beat upon him, but revealed no spot. He lived a pure and noble life, until the time arrived when—

He gave his honors to the world again,
His blessed heart to heaven—

and the soldier was at rest.

He was not the type of public man whom the Roman satirist had in mind, when he penned his famous lines:

Get place, and wealth, if possible, with grace,
If not, by any means, get place, and wealth.

Inevitably the words of the Psalmist recur to us when we recall the life, and public career of Maj. DANIEL: He lived an uncorrupt life; he did the thing that was right; he spoke the truth from his heart.

Maj. DANIEL was never ruffled by adversity, but bore prosperity and adversity alike, with moderation. His life was marked by that high seriousness which Aristotle has noted as an invariable accompaniment of preeminence. All of his work was characterized by diligent and careful preparation. He was not a frequent participant in the current debates of the Senate, though well able to maintain himself with dignity and credit. As pointed out by Senator LODGE in his beautiful and discriminating eulogy, "he liked large issues, because they afforded the widest opportunity for speculation as to causes, and for visions of the future." Maj. DANIEL'S style of speech was rich at all times, and in early life florid. He loved to deal in tropes and figures, and in his vivid utterances, were realized "the thoughts that breathe, and words that burn." He possessed in abundant measure that exuberant imagination which bodies forth the forms of things unknown, and the poet's pen which "turns them to shapes, and gives to airy nothings a local habitation, and a name." But as time passed, his style became more austere, so that his logic was more observed, than the form of words in which it was expressed, or the illustrations with which his arguments were adorned. In the ordinary relations of life, Maj. DANIEL was sincere, courteous, frank, and dignified. These traits have been noted by all his eulogists. In this connection it is not amiss to cite Senator LODGE again, for the beauty of his tribute testifies to the depth of the impression made upon the statesman from Massachusetts by the charm of Maj. DANIEL'S personality.

"The grave courtesy of his manner, which never wavered, had to me a peculiar charm. I should not for a moment think of hinting even that the manners now generally in vogue are not better, but they are certainly different. Manners like those of Senator DANIEL, I suppose, would be thought to take too much time, both in acquisition and practice, among a generation which can employ its passing hours more usefully. Yet I can not divest myself of the feeling, an inherited superstition, perhaps, that manners such as his—serious, gracious, elaborate, if you please, but full of kindness, and thought for others—can never really grow old, or pass out of fashion."

Maj. DANIEL was not rich, as men count riches. He died, as he had lived, poor in worldly goods, but rich in the approving favor of his cotemporaries, in friendship's smiles, and the affectionate regard of his intimates. He bequeathed a stainless life to his children, a noble heritage, one more to be desired than fine gold.

Maj. DANIEL was a devoted husband and an affectionate father. As a statesman he translated into the discharge of public duties, those virtues which adorned his family relations. In this ideal private and family life, may be found the key to the beauty of his public career. It was long ago pointed out by Æschines, in a memorable oration, that: He who hates his own children, he who is a bad parent, can not be a good leader of the people. He who is insensible to the duties which he owes to those who are nearest and who ought to be dearest to him, will never feel a higher regard for the welfare of those who are strangers to him. He who acts wickedly in private life, can never be expected to show himself noble in his public conduct. He who is base at home, will not acquit himself with honor when sent to a foreign country in a public capacity; for it is not the man, but the place merely that is changed. It was the genuine quality of Maj. DANIEL'S patriotism, and his sensitive regard for duty, which impressed all who came into relation with him in his public capacities.

Maj. DANIEL'S style was copious, lucid, and flowing. His arguments were richly broidered with gems of fancy, and erudition. In his lighter vein when he ranged from grave to gay, from lively to severe, he was charming, with a most pleasing, and attractive humor, and many deft, and happy turns of speech. But he never lost the grave dignity of his manner, or with infinite jest, undertook to "set the table on a roar."

His eloquence, brightening whatever it tried,
Whether reason, or fancy, the gay or the grave,
Was as rapid, as deep, and as brilliant a tide
As ever bore freedom aloft on its wave.

He had the ear of the Senate whenever he rose to speak, for he never failed to bring to his subject, the results of wide reading, profound reflection, and careful study. Most fitly may that be said of him, which he said of another: He was not the servant of personal ambition, or of private ends. He was faithful to truth as he saw it; to duty as he understood it; to constitutional liberty, as he conceived it. On March 8, 1910, the news ran through Virginia that he had suffered a stroke of paralysis at Daytona, and the whole State thrilled with voiceless apprehension. A little later he was brought home to Lynchburg, and on June 29, "God's finger touched him, and he slept." The rest is silence.

It is well, ere "history fades into fable, and fact becomes clouded with doubt, and controversy," that the men of this generation should set down with loving intent, if halting phrase, the abundant excellencies of this great man's life. He was indeed, a

Statesman, yet friend to Truth, of soul sincere,
To action faithful, and in honor clear,
Who broke no promise, served no private end,
Who gained high honors, yet lost no friend.

Maj. DANIEL at the time of his death was not old as men reckon age. His natural powers were not abated, nor his eye dimmed. He had not reached the concluding winter of life, merely its sober autumn, when death smote him, and ended his activities. His life had been a notable one. He had known all the distinction that an admiring people could heap upon him, and all the joy that springs from untiring toil. Within the years of his public service, he had compressed many crowded hours of glorious life. That life has been, and will be, an inspiration to thousands who turn away from the sordid bickerings of time-servers, and place-hunters, to the contemplation of its beauty, and purity. We will not soon look upon its like again. In the starry heavens which proclaim the handiwork of God, revolve great orbs whose fires have long been quenched, but to the eye of man they are still visible. Their light streams earthward in apparently undiminished splendor. It is so with our dead friend. The radiant glory of his life, is not ended with death.